

2016 Annual Report

Attorney General
Mark Brnovich



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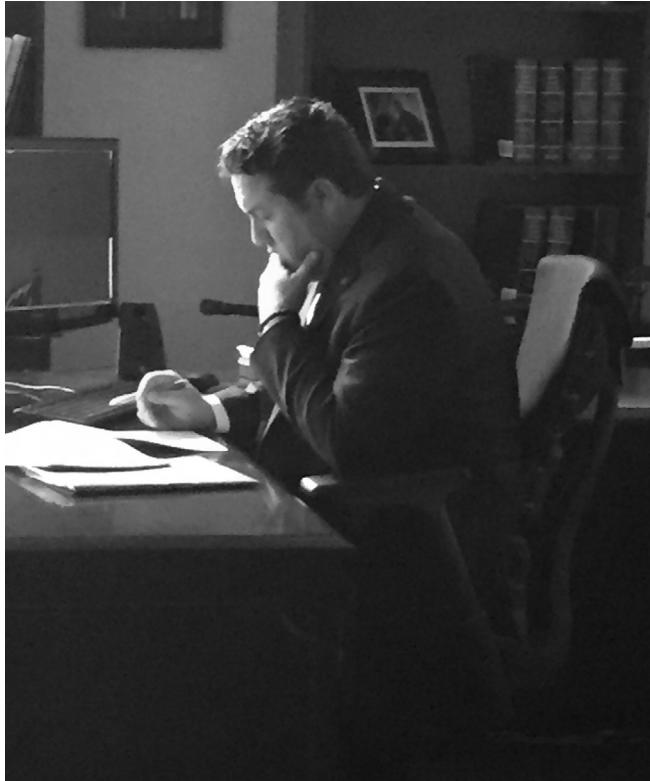
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General Brnovich



It is an incredible honor to serve as your Attorney General. It is also a great privilege and pleasure to lead the team at the Arizona Attorney General's Office, which is composed of some of the most dedicated and talented public servants in the country. As the state's attorney and top law enforcement agency, we remain committed to making a difference every day for the people of Arizona.

This report provides a summary of the FY2016. While not an exhaustive list, it certainly highlights the achievements of our divisions and sections. From protecting the most vulnerable and pushing back against federal overreach, to aggressively prosecuting those who wish to do harm, we are always involved in the assiduous pursuit of justice.

The Arizona Attorney General's Office made great strides in so many important areas in FY2016. I trust that you will find this report to be interesting and helpful in reviewing our progress. I also invite you to contact our office if you are in need of any additional information.

Every person plays an important role at the Attorney General's Office, and I am so proud of the work we have done over the last 12 months. This last year was also filled with some very personally memorable experiences, including arguing at the United States Supreme Court regarding voter redistricting, being interviewed on the CBS talk show 60 Minutes in defense of capital punishment, and being asked to appear on Times Squares' largest billboards to combat human sex trafficking during national college bowl championships. It has been quite a year.

Respectfully,

A handwritten signature in black ink that reads "Mark Br". The signature is fluid and cursive, with a long horizontal flourish extending to the right from the end of the "Br".

Mark Brnovich
Arizona Attorney General





Mark Brnovich is the Attorney General for the State of Arizona. The Attorney General is a statewide elected, constitutionally-independent officer. Elected to a four-year term, the Attorney General is the state's chief legal officer and law enforcer.

Attorney General Mark Brnovich

Michael Bailey is Chief Deputy Attorney General and Chief of Staff. He serves as the primary advisor to Attorney General Brnovich and oversees the day-to-day operations of all divisions of the Attorney General's Office.



Chief Deputy Michael Bailey

The Attorney General serves as the chief legal officer of the State. The Attorney General is mandated by our constitution and elected to a four-year term by the people of Arizona.

The Attorney General's Office (AGO) brings and defends lawsuits on behalf of the State and prepares formal legal opinions requested by State officers, legislators, or county attorneys on issues of law. It represents and provides legal advice to most State agencies; enforces consumer protection and civil rights laws; and prosecutes criminals charged with complex financial crimes and certain conspiracies involving illegal drugs. In addition, all appeals statewide from felony convictions are handed down by this Office.

The Child and Family Protection Division provides legal services to all the divisions of the Department of Economic Security (DES), including the Division of Child Support Services (DCSS). It also provides legal services to the Department of Child Safety.

The AGO has jurisdiction over Arizona's Consumer Fraud Act, white collar crime, organized crime, public corruption, environmental laws, civil rights laws, and crimes committed in more than one county. Additionally, this Office prosecutes cases normally handled by county attorneys when they have a conflict.

The AGO is the largest law office in the State and is divided into:

- Criminal Division
- State Government Division
- Child and Family Protection Division
- Civil Litigation Division
- Solicitor General's Office
- Executive Office
- Operations Division
- Communications Division

Employee Recognition

2015 Employee Awards Ceremony

The 2015 Employee Awards Ceremony was held at the Talking Stick Arena where hundreds of employees gathered to recognize their hard work and celebrate their successes. This year, employees nominated each other using a certain set of criteria across several different categories. The winners were chosen by the Executive Office and Attorney General Mark Brnovich and Chief Deputy Mike Bailey awarded plaques to the winners. Congratulations to the 2015 Winners!



Award	Name	Division
2015 Emerging Star	Laura Kuhse Katie Hafler Rebekah Browder Sarah Anderson Michelle Rucker Maura Quigley Bobbie Garcia Joseph Montoya Macean Mahoney Phyllis Durbin Jim Driscoll-Maceachron Susan Peterson	Child & Family Protection Child & Family Protection Civil Litigation Division Civil Litigation Division Communications Division Criminal Division Criminal Division Operations Division State Government Division State Government Division Solicitor General Solicitor General
2015 Employee of the Year	Bonnie Quijada Diana Wilkerson Eugene Rhodes Travis Williams Kay Gee Marie Gonzalez Daniel Vidal	Child & Family Protection Civil Litigation Division Communications Division Criminal Division Operations Division State Government Division Solicitor General
2015 Attorney of the Year	Virginia Gonzales Beau Roysden Josh Moser Aubrey Joy Corcoran David Simpson	Child & Family Protection Civil Litigation Division Criminal Division State Government Division Solicitor General
Excellence in Service	TammieJo Hatcher Audra Piper	Operations Division Operations Division
2015 Volunteer Excellence	Charles Erickson	Criminal Division
2015 Mediocre Team	AG2 Softball Team	

Employee Recognition

Award	Name	Division
2015 Leadership in Action	Allison Crane Kera Schlotfeld Lynette Evans Melissa Porter Tom Rankin Kenesha Jackson Ken Holtkamp Mike Gottfried Nancy Bridges Jennifer Perkins Betsy Gordon	Child & Family Protection Child & Family Protection Civil Litigation Division Civil Litigation Division Criminal Division Criminal Division Operations Division State Government Division State Government Division Solicitor General Solicitor General
2015 Michael C. Cudahy Mentoring Award	Gaylene Morgan Charlotte Abram Curtis Cox Stephen Scott Mary Harriss Robert Eckert Jerry Connolly Rex Nowlan Karen Prescott Lacey Gard Joan Dalton	Child & Family Protection Child & Family Protection Civil Litigation Division Civil Litigation Division Criminal Division Criminal Division Operations Division State Government Division State Government Division Solicitor General Solicitor General
2015 Career Service	Terri Martin Scherri Ayala Nancy Anger Diana Norris Carol Keppler Jon Tavormina Robert Sokol James Redpath Joe Maziarz	Child & Family Protection Child & Family Protection Civil Litigation Division Civil Litigation Division Criminal Division Operations Division State Government Division State Government Division Solicitor General
2015 Outstanding Team	PSS South Unit Environmental Services Section Community Outreach Nick Klingerman Tom Rankin Budget & Finance Section DOC Team Paula Bickett Jim Driscoll-MacEachron Kara Karlson Dominich Draye Maureen Riordan Stacy Coleman	Child & Family Protection Civil Litigation Division Communications Division Criminal Division Criminal Division Operations Division State Government Division Solicitor General Solicitor General Solicitor General Solicitor General Solicitor General Solicitor General

Employee Recognition



Employee Recognition



Communications Division



Director Ryan Anderson

MISSION:

The Communications Division provides a crucial interface between the Attorney General's Office and the state's policy makers, law enforcement, media and the general public. It reports on the agency's activities while promoting efficiency and transparency in state government.

Division Summary

The Communications Division is comprised of members of the executive office who assist with legislative affairs, media relations, public information and community outreach.

2nd Regular Session of Arizona's 52nd Legislature

Arizona's 52nd Legislature, 2nd Regular Session began on Monday, January 11, 2016. The legislature adjourned ("sine die") on May 7, 2016 at 5:45 am. The session lasted 117 days, 36 days longer than the 2015 session - which was the shortest session in nearly 50 years. Legislators introduced 1,247 pieces of legislation, with 388 bills ultimately reaching the governor's desk. The governor signed 374 bills into law and vetoed the other 14. The general effective date for bills signed into law was August 6, 2016, excluding measures that contained delayed effective dates or emergency clauses.

Employees of the Arizona Attorney General's Office reviewed over a thousand pieces of legislation and the legislative team worked with various divisions and sections within the Office to closely monitor and engage in approximately 70 bills that had a direct impact on the Office. While most efforts were dedicated to providing technical expertise and suggested amendments to bills, the Office also worked to stop a number of bills that would have had a negative or adverse impact on the Office. Additionally, the legislative team worked to help pass a number of legislative proposals that enhanced or improved the Office's statutory and constitutional responsibilities.

Resources to Protect the Most Vulnerable

In a continued effort to protect Arizona's most vulnerable populations, Attorney General Brnovich's top budgetary priority for the session was a request for additional attorneys in the Protective Services Section (PSS) to address rising caseloads due to inadequate funding. And while previous attorneys general had made similar requests for additional funding, Attorney General Brnovich began making a public case for more resources in September 2015, commenting in the Arizona Republic that, "This shouldn't be a partisan issue. We should all work together to repair Arizona's child welfare system."

Communications Division

PSS represents the Department of Child Safety before the Juvenile Division of the Superior Court throughout Arizona's 15 counties. PSS attorneys were carrying an average caseload of more than double the American Bar Association's recommended caseload of no more than 60 cases for child welfare attorneys. And while the number of children in foster care has escalated by more than 43 percent since July 2013, the Office had not received the additional funding needed to hire the necessary attorneys.

Ultimately, as a result of the request and an outpouring of support from the child welfare community, the Legislature appropriated \$3.1 million and 42 additional attorneys and support staff for FY2017 and \$1.9 million supplemental funding for FY2016 and beyond. The additional attorneys will allow PSS to meet the growing needs of the child welfare system and allow the Office to address attorney retention issues.

Strengthening Telemarketing Fraud Statutes

The Attorney General's Office receives numerous annual complaints related to telemarketing and unsolicited business opportunity calls. In addition to the Office's enforcement of Do Not Call List violations and continued efforts to successfully recover restitution for victims of telemarketing scams, the Office worked with the Legislature to introduce SB1375 which gives the Office more authority to prosecute telemarketers who exploited loopholes in the Telephone Solicitation Act. Currently, telemarketers who call Arizona telephone numbers and do not qualify for an exemption are required to register with the Secretary of State's Office.

Registration requirements provide the Office with an enforcement mechanism to hold telemarketers who do not follow the law accountable. However, telemarketers in Arizona who call out-of-state numbers previously were not required to register with the Secretary of State's Office and did not have the same regulations as those who call Arizona phone numbers.

SB1375 prescribed the same registration requirements for solicitation calls made from persons located in Arizona to out-of-state numbers as those that exist in statute for solicitation calls made from persons located in Arizona to in-state numbers. As a result, the Office expects to be able to increase enforcement of consumer-friendly telemarketing statutes against Arizona-based companies that flagrantly violate the law.

Increasing Local Government Accountability

Over 30 bills introduced this year expanded the authority of the Attorney General's Office. Several of those bills became law, including SB1487. The Governor signed the controversial legislation introduced by Senate President Andy Biggs, which allows a legislator to ask the Office to investigate a city, town or county that is alleged to have violated state law or the Arizona Constitution. Upon investigation, the Office may determine whether the town, city or county has violated (or is violating) the law and provide the offender with 30 days to cure the violation. If unresolved, the Treasurer is directed by law to withhold the city, town or counties state shared revenue and the Office is also required to take steps to obtain a judicial determination of the offense.

Communications Division

Community Outreach Section

The Community Outreach Division of the Arizona Attorney's General Office is committed to protecting Arizona and its citizens through prevention programs and education. Community Outreach currently provides 15 different presentations and programs designed to provide education and community awareness on important topics such as anti-bullying, consumer scams, human trafficking, and internet safety. From July 31, 2015 to July 31, 2016, the Community Outreach Division conducted 569 presentations across the state, reaching over 60,000 seniors, parents, schools, veterans, and other members of the community.



Law Enforcement Training

The Arizona Attorney General's Office is committed to supporting local law enforcement officers, agencies, and communities across Arizona. In partnership with federal, local, and state law enforcement agencies, the

Attorney General's Office provides tools, resources, and training to licensed and commissioned Arizona Peace Officers statewide. These partnerships focus on officer safety, law enforcement community relations, and protecting Arizonans.



In the past year, the Office has sponsored number free educational classes tailored to law enforcement officials including "Street Medicine" courses and American Heart CPR / AED classes. During that time, over 300 law enforcement personnel representing over 30 agencies have been trained across the state. Additionally, over 120 individuals have been become CPR / AED certified as a result of training from the Office.





Solicitor General John Lopez

MISSION:

The Solicitor General's Office provides leadership in federalism litigation, criminal appeals and capital litigation, civil appeals and election law, legal opinions, library and research services, ethics, and public access laws. It is committed to excellence, fairness, and integrity.

Division Summary

The Solicitor General's Office is responsible for:

- Protecting the State of Arizona's interests through federalism litigation;
- Managing the State of Arizona's civil appellate litigation;
- Managing the State of Arizona's criminal and post-conviction litigation;
- Overseeing the preparation and publication of Attorney General Opinions;
- Representing the Clean Elections Commission and the Secretary of State on election law issues and enforcing civil election and campaign finance laws;
- Reviewing constitutional challenges to Arizona state laws;
- Providing advice to all attorneys employed by the Attorney General with respect to ethics and professionalism issues;
- Coordinating the work of the Open Meeting Law Enforcement Team and the Public Records Task Force.

The Federalism Unit

Overview of Accomplishments

In its first full year of operation, the Federalism Unit notched an important Ninth Circuit victory for States' rights and initiated litigation in the District of Columbia Circuit related to EPA rules that are especially crippling for Arizona. The first of these, Puente Arizona v. Arpaio, involved a challenge to Arizona's laws criminalizing identity theft, which the plaintiffs asserted are preempted by federal authority over immigration. The U.S. Department of Justice weighed in to support that position and consolidate power in the federal government. After the District Court granted a preliminary injunction in favor of the plaintiffs, our attorneys won reversal in the Ninth Circuit. The case has now returned to the district court on plaintiffs' "as-applied" claims, with the favorable Ninth Circuit opinion providing significant guidance and support for the State's view.

The second headline case for the Federalism Unit, which is representative of a whole class of cases on related topics, is our lawsuit seeking to stop EPA's new rules governing ozone. The rules, promulgated in 2015, are essentially impossible for many areas in Arizona to satisfy. Faced with the prospect of crippling federal regulations, Arizona led a ten-state coalition suing in the DC Circuit. The States argue that EPA's rules are arbitrary and capricious for failing to account for uncontrollable background ozone, including ozone blown into the U.S. from

Solicitor General's Office

other countries, and that the rules represent an unconstitutional delegation of legislative power to the executive branch. Oral argument is expected at the end of 2016, with a decision likely in early 2017. As explained in greater detail below, challenges of this type have become a major part of the Federalism Unit's work, with Arizona sometimes leading the multi-state coalition and sometimes joining coalitions led by our sister states.



Section Highlights

Clean Power Plan – Arizona is one of two dozen states challenging the so-called “Clean Power Plan” in federal court. The States succeeded in getting an unprecedented stay of the rule from the Supreme Court. That stay will remain in effect throughout the pendency of the litigation, which is presently before the DC Circuit. Argument is scheduled for September 2016 before the en banc court.

WOTUS – Another multi-state effort in the area of environmental law challenges the Administration’s redefinition of “waters of the United States” (WOTUS) in a way that expands federal authority to encompass even intermittent streams. The coalition succeeded in getting a nationwide stay of the rule, pending adjudication in the Sixth Circuit.

Arizona Dream Act Coalition v. Brewer – After an unfavorable decision from a Ninth Circuit panel that had previously ruled against the State in the same case, Arizona has now sought rehearing before the en banc Ninth Circuit. The en banc court took the encouraging step of requesting a brief from the plaintiff-appellees explaining why their success in forcing Arizona to issue driver’s licenses to unauthorized aliens covered by President Obama’s “Deferred Action for Childhood Arrivals” (DACA) program should not face further scrutiny. A decision on rehearing will likely issue before the end of 2016.

Texas v. United States – Numerous states have filed suit to stop the Department of Education (DOE) from reinterpreting Title IX to require all schools to open boys’ and girls’ bathrooms, locker rooms, and showers to persons of the opposite sex. DOE’s regulation would expand the prohibition on sex discrimination to include “gender identity,” which appears nowhere in the statute. The States have challenged this rewriting of Title IX on statutory and constitutional grounds. In support of this effort, the Federalism Unit organized local plaintiffs, including the Superintendent of Public Instruction and the Heber-Overgaard Unified School District, who supplied affidavits concerning the impact of DOE’s rule on local educators.

Gila River General Stream Adjudication – Federalism Unit attorneys partnered with lawyers from the Natural Resources Section to represent the State’s interest in water in the Gila River watershed. The federal government has attempted to claim an unprecedented share of the water based on the purported needs of Fort Huachuca. The State has effectively undermined those claims and has filed a motion for summary judgment in advance of trial, which is set to begin in October 2016.

In addition to its involvement in active federalism litigation, the Federalism Unit continues to actively consult with state government and private sector stakeholders to research and anticipate federal regulatory actions that may infringe upon the State of Arizona’s right to self-governance.

AGO Criminal Appeals Section and Capital Litigation Section

Overview of Accomplishments

In fiscal year 2016, the Criminal Appeals Section and Capital Litigation Section worked to uphold the convictions and sentences of criminal defendants in Arizona. The Sections filed 929 briefs, habeas answers, petitions for review, and responses to petitions for review, and other substantive motions and responses, including evidentiary hearing and oral arguments. Members of the Sections have also been involved in providing education and training on a variety of criminal law and procedure issues to prosecutors throughout the state.

Section Highlights

- The Criminal Appeals Section consists of 24 attorneys
- The Capital Litigation Section consists of 15 attorneys
- Support staff for both sections consists of 14 members

The Criminal Appeals Section represents the State in the Arizona Court of Appeals, the Arizona Supreme Court, and the United States Supreme Court when criminal defendants appeal their non-capital felony convictions. The Section also represents the State in the United States District Court, the Ninth Circuit Court of Appeals, and the United States Supreme Court when defendants challenge their convictions and sentences in federal habeas corpus petitions. In addition to representing the State in criminal appellate litigation, the Section provides periodic legal advice to County Attorneys throughout Arizona regarding criminal trial prosecutions.

The Section provides unique benefits to the State. By representing the State in all non-capital felony appeals, the Section maintains consistent and uniform positions regarding issues of criminal law, which allows for the orderly and consistent development of criminal law in the state and federal courts. In addition, because the attorneys in the Section are appellate specialists, they provide consistent, efficient, and high-quality appellate representation that individual counties are unable to provide. This increases the likelihood that dangerous criminals will have their convictions and sentences affirmed on appeal, protecting the community and saving resources that would otherwise be expended on expensive retrials and re-sentencings.

The Capital Litigation Section handles all appellate and post-conviction proceedings involving death-row inmates in Arizona. Those proceedings include the direct appeal to the Arizona Supreme Court and the United States Supreme Court following conviction and sentencing; state post-conviction relief proceedings in the trial court and the Arizona Supreme Court; federal habeas proceedings in federal district court, the United States Court of Appeals for the Ninth Circuit and the United States Supreme Court; and federal-court lawsuits challenging Arizona's lethal-injection protocol under 42 U.S.C. § 1983. The Section also assists trial lawyers with research and advice regarding death penalty issues. And Section members conduct periodic death-penalty and habeas-corpus seminars in connection with the Arizona Prosecuting Attorneys' Advisory Council and the National Attorneys General Training and Research Institute.

In addition to handling all post-verdict capital case proceedings in the State, the Section has assisted the Office with criminal issues that affect other sections. Further, in the last fiscal year, Section members served on the Arizona Supreme Court's Capital Case Oversight Committee, the Arizona Forensic Science Advisory Committee, and the Arizona State Bar's Arizona Attorney Editorial Board.

Solicitor General's Office

Major Accomplishments – Criminal Appeals Section

Fiscal year 2016 was a very challenging year for the Criminal Appeals Section (CAS). Three of the four unit chiefs retired. Fortunately, the attorneys promoted to fill those positions have done an excellent job. However, CAS lost a great deal of experience and productivity. Additionally, the caseloads of the attorneys have increased during the year. The quality of the work remains high, despite the heavy workload.

There were numerous successes during the course of the year. The following published opinions are illustrative.

State v. Gray – CAS successfully defended Arizona’s entrapment statute (drafted in large part by attorneys in CAS in 1997) against both a statutory construction challenge and constitutional challenge. The Arizona Supreme Court held that the plain wording of the statute required that a defendant affirmatively admit, at trial, the elements of the crime(s) charged as a prerequisite to obtaining a jury instruction on entrapment. The Court held that merely failing to challenge the State’s evidence was insufficient. The Court also held that requiring the defendant to admit the element(s) of the crime did not “compel” self-incrimination in violation of the Fifth Amendment, nor did it violate the “unconstitutional conditions” doctrine.

State v. Valenzuela – Although the Arizona Supreme Court held that the standard implied consent admonition—given by virtually all law enforcement officers in the State in DUI cases—amounted to “compelled consent” in violation of the Fourth Amendment – CAS convinced the Court to apply the “good-faith” exception to the exclusionary rule. Thus, although the defendant’s consent was unconstitutionally obtained, the results of the breath and blood tests were not subject to suppression. This holding is extremely important because it affects hundreds, if not thousands, of cases in which the standard admonition had been given.

State v. Neese – Between 1999 and 2004 there were numerous unsolved residential burglaries and thefts in the North Scottsdale/Paradise Valley area. The unknown perpetrator was known as the “rock burglar” because most burglaries were committed by throwing a rock through large windows to gain entry into the homes. In 2005 the State indicted “John Doe, I” and a specific “DNA profile” that had been obtained at some of the burglarized homes. The State did so to avoid the 7-year statute of limitations. In 2011, the defendant’s DNA was matched to the profile and an amended indictment was filed substituting the defendant’s name. The defendant moved to dismiss on statute of limitations grounds, claiming that a DNA profile did “not serve to identify someone.” The trial court denied the motion and the defendant was convicted. On appeal, the court of appeals held that “a criminal prosecution commences upon the filing of a ‘John Doe’ indictment that identifies a defendant with a unique DNA profile.” This was an issue of first impression in Arizona and, given the advancements in DNA detection and matching, should prove to be important in future cases.

State v. Cheatham – In this case CAS defended the “plain smell doctrine,” as it applied to the odor of marijuana, which provided that the smell of marijuana alone constituted probable cause to search. The defendant asserted that the Arizona Medical Marijuana Act (AMMA) changed the calculus because some people could legally possess and smoke marijuana. The court of appeals held “the AMMA does not decriminalize marijuana possession or use,” but merely provides “immunity” for individuals in strict compliance with the AMMA. Thus, the smell of marijuana alone still constitutes probable cause to search. The holding was affirmed by the Arizona Supreme Court on July 11, 2016.

State v. Decker – In this case CAS convinced the court of appeals that firing a bullet into a home satisfied the “entry” element of the first degree “burglary” statute. The defendant fired three shots into an apartment, killing the victim, and was charged with first degree burglary and first degree murder, both premeditated and a felony (with burglary the predicate felony). The State asserted that, by firing the bullets at the victim and into the apartment, he satisfied the “entry” element. We argued, and the Court agreed, that a bullet constitutes an “instrument” sufficient to meet the statutory definition of “entry.” “Because a person firing a bullet, even it is from outside a doorway, is using the projectile as a means to accomplish a task within the residence—here, murder—the bullet qualifies as an instrument that can ‘enter’ a structure for purposes of burglary.”

Major Accomplishments – Capital Litigation Section

The Capital Litigation Section’s attorneys effectively litigated a tremendous number of high-stakes, high-profile capital cases in state and federal court during the last fiscal year. The Section’s workload remains heavy, but is manageable due to the creation in 2013 of a dedicated state post-conviction relief unit, the attorney members of which are currently responsible for litigating the bulk of the 50 cases pending in state post-conviction proceedings.

A. Executions

Executions in Arizona have been stayed by court order in the *First Amendment Coalition, et al. v. Charles L. Ryan, et al.* lawsuit, in which a group of media outlets and death-row inmates have sued Arizona Department of Corrections (ADC) personnel under 42 U.S.C. § 1983, alleging that Arizona’s lethal-injection protocol violates various constitutional provisions. Further impeding the State’s inability to obtain execution warrants is the fact that ADC lacks an unexpired supply of chemicals necessary to carry out executions, and has been unable to replenish its supply due to a nationwide shortage of lethal-injection drugs. When executions resume, the State could seek execution warrants for the five inmates who have exhausted their of-right appeals. Three more inmates have recently been denied relief by the Ninth Circuit; unless the United States Supreme Court intervenes, these inmates should also be eligible for execution by the end of 2016.

B. Cases in the Ninth Circuit Court of Appeals

In the last few years, the Ninth Circuit has remanded 19 Arizona federal habeas appeals to the district court for further consideration under *Martinez v. Ryan*, 132 S. Ct. 1309 (2012). Three of these cases have been resolved in the State’s favor, one has been stayed indefinitely because the inmate is terminally ill, and the remainder have been briefed and are pending rulings by the district court. In addition, several pending appeals have been stayed in the Ninth Circuit awaiting the Supreme Court’s resolution of Arizona’s certiorari petition from the Ninth Circuit’s *en banc* ruling in *McKinney v. Ryan*, 813 F.3d 798 (2015), which held that the Arizona Supreme Court, for a period of 16 years, unconstitutionally conditioned the consideration of mitigating evidence on the evidence’s causal relationship to the offense.

As a result of *Martinez* and *McKinney*, the Ninth Circuit decided only a handful of Arizona capital habeas appeals in the last fiscal year. However, the court affirmed the denial of federal habeas relief in four very old cases:

Michael Gallegos v. Charles Ryan – Gallegos murdered an 8-year-old Phoenix girl in 1990 and sexually abused her body. The Ninth Circuit affirmed the district court’s denial of Gallegos’ numerous ineffective-assistance-of-

Solicitor General's Office

counsel claims, but remanded for the district court to address a newly-discovered evidence claim alleging that the State had violated *Brady v. Maryland*, 373 U.S. 83 (1963).

Sean Bernard Runningeagle v. Charles Ryan – Runningeagle murdered an elderly Phoenix couple in 1987. In 2012, the Ninth Circuit remanded his case to the district court to determine whether he could satisfy Martinez’s gateway to have certain ineffective-assistance claims, which were previously found defaulted, heard on the merits. The district court found that he could not, and the Ninth Circuit affirmed this ruling in a unanimous opinion, bringing Runningeagle’s 29-year-old case one step closer to conclusion.

J.C. Smith v. Ryan – In 1976, Smith sexually assaulted a woman and murdered two teenage girls while on probation for an unrelated rape. Smith suffocated the teenagers by forcing dirt into their mouths and taping them shut; he also stabbed the girls multiple times, punctured them with needles, and tied their wrists together. Smith alleged multiple constitutional errors on habeas, including that the State had violated his confrontation rights by presenting testimony from a medical examiner who did not perform the victims’ autopsies, and that counsel was ineffective for failing to present brain-scan evidence as mitigation. The Ninth Circuit rejected Smith’s claims and affirmed the district court’s order denying habeas relief in this 40-year-old case.

Styers v. Ryan – In 1989, Styers conspired with Debra Milke and Roger Scott to murder Milke’s 4-year-old son, Christopher. Styers and Scott convinced Christopher they were taking him to see Santa Claus at a local mall, but instead took him out for pizza and then to a desert area, under the guise of searching for snakes. There, Styers shot Christopher three times in the back of the head. Several years ago, the Ninth Circuit found that the Arizona Supreme Court on direct appeal had unconstitutionally refused to consider Styers’ mitigation because it lacked a causal nexus to the offense. The Ninth Circuit granted a conditional habeas writ, directing the State courts to cure the constitutional error. The Arizona Supreme Court thereafter reopened the direct appeal, reviewed Styers’ death sentence anew, without imposing a causal-nexus requirement, and again affirmed Styers’ death sentence. Styers unsuccessfully sought an unconditional writ of habeas corpus from the district court, accusing the Arizona Supreme Court of failing to correct the error. On appeal from this ruling, a three-judge Ninth Circuit panel unanimously concluded that the Arizona Supreme Court had corrected the constitutional error, and denied Styers’ related claim that the conditional writ required that he be resentenced by a jury.

C. Arizona Supreme Court

State v. Mark Goudeau – Goudeau, the notorious “Baseline Killer,” terrorized the Phoenix metropolitan area in 2005 and 2006, killing nine people and sexually assaulting several others. In all, he left 33 victims in his wake. A jury sentenced him to death for each of his nine murder convictions. The Arizona Supreme Court affirmed Goudeau’s convictions and sentences in a voluminous opinion. This case represents a critical victory for the Office, the State of Arizona, and Goudeau’s scores of victims.

State v. Vincent Joseph Guarino – Guarino murdered Chad Rowe to gain membership in the Aryan Brotherhood gang. A jury sentenced him to death. The Arizona Supreme Court rejected Guarino’s challenges to his convictions and sentences and concluded that the jurors did not abuse their discretion by finding his mitigation insufficiently substantial to warrant leniency.

State v. Andre Michael Leteve – To obtain revenge on his former wife, Leteve killed the two children he shared with her. He was sentenced to death for each child’s murder. Leteve presented several issues on appeal, including

challenges to the trial court's orders precluding evidence that he had a character trait for impulsivity and that he had consumed prescription drugs before the murders. The Arizona Supreme Court rejected his arguments, affirming his convictions and sentences.

State v. Shawn Patrick Lynch – In 2001, Lynch tied James Panzarella to a chair in Panzarella's home, slit his throat, and stole his credit cards and other belongings. Lynch was sentenced to death, but the Arizona Supreme Court ordered that he be resentenced. Lynch was again sentenced to death and appealed that verdict, raising numerous claims of prosecutorial misconduct and sentencing error. The Arizona Supreme Court rejected those claims and affirmed Lynch's death sentence on independent review. Although the United States Supreme Court subsequently reversed the Arizona Supreme Court's decision in part, finding that the trial court had erroneously refused a jury instruction Lynch requested, it did not order that Lynch be resentenced and did not disturb the remainder of the Arizona Supreme Court's opinion. The case remains pending before the Arizona Supreme Court on the State's request to find the error harmless.

State v. Homer Ray Roseberry (Post-conviction case) – In *Roseberry*, the Arizona Supreme Court took a rare step in accepting discretionary review of a post-conviction court's ruling denying relief. Roseberry murdered Fred Fottler in order to steal a large amount of marijuana Fottler and Roseberry were transporting for a drug cartel. The jurors sentenced Roseberry to death after being erroneously instructed that they could only consider Roseberry's mitigation if it was causally connected to the offense. Roseberry's appellate attorney did not challenge this instruction in Roseberry's direct appeal, and the Arizona Supreme Court affirmed Roseberry's convictions and death sentence. The post-conviction court rejected Roseberry's petition without an evidentiary hearing, including his claim that appellate counsel ineffectively failed to challenge the causal-nexus instruction. Reviewing this decision, the Arizona Supreme Court expressly clarified that it had considered all of Roseberry's mitigation in its independent review of his death sentence on direct appeal, and that any deficiency by appellate counsel therefore did not prejudice Roseberry. The Arizona Supreme Court's intervention substantially increases the likelihood that Roseberry's sentence will survive federal habeas review.

D. Post-Conviction Relief Rulings following Evidentiary Hearings

State v. Frank Dale McCray – In 2001, McCray was charged with the 1987 cold-case murder of a Phoenix woman, after having been identified as the perpetrator through DNA evidence while imprisoned for a separate sexual assault. A Maricopa County jury sentenced McCray to death. The post-conviction court conducted a 7-day evidentiary hearing, at which five mental-health experts and several other witnesses testified, on the question whether McCray's counsel was ineffective for failing to present additional mitigation regarding McCray's mental-health difficulties and poor upbringing. The court rejected McCray's claim, finding that counsel did not perform deficiently in failing to present additional mitigation, and that McCray's proffered mitigation would not have made a difference, particularly where the State could have rebutted it with evidence that McCray was a serial rapist.

E. Lethal-injection litigation

First Amendment Coalition v. Ryan – As mentioned above, a group of media outlets and death-row inmates has sued ADC personnel under 42 U.S.C. § 1983, alleging that Arizona's lethal-injection protocol violates various constitutional provisions, including the First, Eighth, and Fourteenth Amendments. A team led by SGO Senior

Solicitor General's Office

Litigation Counsel David Weinzweig and CLS Unit Chief Jeff Sparks successfully moved to dismiss a number of the Plaintiffs' claims under Federal Rule of Civil Procedure 12(b)(6), including several allegations that the First Amendment entitled the Plaintiffs to unfettered access to information about the sources of Arizona's lethal-injection drugs, which are confidential under A.R.S. § 13–757(c). Although a small number of claims remain to be litigated, David and Jeff's victory significantly streamlined the lawsuit.

AGO Civil Appeals and Elections Section

Section Highlights

The Solicitor General's Office Civil Appeals and Elections Section, Attorney General Opinions, Ethics, and the Law Library consist of:

- Civil Appeals (two attorneys and a part-time appellate attorney for DES)
- Elections (two attorneys)
- Opinions (one attorney who oversees the Attorney General Opinion committee)
- Senior Litigation Counsel (one attorney who works with a number of different divisions throughout the Attorney General's Office)
- Library Research Services Director
- The above sections share six support staff and a part-time assistant for the Law Library

Major Accomplishments

Appellate Brief Review Statistics

Appellate briefing was prolific in fiscal year 2016. SGO attorneys reviewed 426 appellate briefs spanning work in Arizona state appellate courts (367 briefs), the Ninth Circuit (21 briefs), the United States Supreme Court (1 brief), and other courts (37 briefs). SGO attorneys also participated in 40 moot court exercises.

A. United States Supreme Court Practice

Harris v. Independent Redistricting Commission – In this case, the Attorney General argued on behalf of the Arizona Secretary of State who took the position that Arizona's Independent Redistricting Commission violated the Equal Protection Clause of the U.S. Constitution in drawing district boundaries that intentionally underpopulated minority "ability to elect" districts. The SGO participated in the briefing and assisted the AG with his preparation for argument. The Supreme Court ruled in favor of the Commission.

B. Ninth Circuit Court of Appeals Practice

A divided panel of the Ninth Circuit held that five provisions of the Arizona Code of Judicial Conduct violated the First Amendment in *Wolfson v. Concannon*, 750 F.3d 1145 (9th Cir. 2014). The challenged provisions included prohibiting judicial candidates from personally soliciting campaign contributions, from publicly endorsing, making speeches on behalf of, and actively taking part in candidate campaigns. The Solicitor General's Office

filed a petition asking the entire Ninth Circuit to reconsider the panel decision, arguing that Code prohibitions are necessary to ensure judicial impartiality and the appearance of judicial impartiality. The Ninth Circuit granted rehearing *en banc*, allowed supplemental briefing, and held argument before the eleven-judge panel. In January 2016, the en banc court held unanimously that the challenged provisions of the Arizona Code of Judicial Conduct are constitutional. Wolfson has filed a petition for certiorari in the U.S. Supreme Court.

Arizona Green Party v. Bennett – The Arizona Green Party alleged that the deadline for filing new party petitions for ballot recognition is unconstitutional because it is too early. A.R.S. § 16-803 requires a petition for a new political party to be filed by no later than one hundred eighty days before the primary election. The district court granted the Secretary's cross-motion for summary judgment. The Green Party appealed to the Ninth Circuit. After briefing, the Court held argument in May 2016, but has not yet issued its decision.

Additionally the Solicitor General's Office participates in all the federal court appeals in the Attorney General's Office by evaluating whether to take appeals, substantially editing briefs, and preparing advocates for oral argument. These appellate matters involve a broad range of civil law, including environmental law, habeas corpus claims, civil rights law, § 1983 law, preemption, and federal constitutional law.

C. Arizona Appellate Court Practice¹

Graham v. Tamburri – In this expedited nomination petition challenge, the Libertarian Party candidate claimed that a 2015 amendment to the number of signatures needed for a valid nomination petition—which is a requirement for having a candidate's name on the primary ballot—violated his First and Fourteenth Amendment rights and that absent the amendment, he would have a sufficient number of signatures to qualify for ballot placement. The superior court upheld the constitutionality of the amendment and found that Tamburri lacked the requisite number of signatures. Tamburri filed an expedited appeal to the Arizona Supreme Court. The SGO argued in favor of upholding the constitutionality of the amendment. The Supreme Court affirmed the superior court stating that an opinion would follow.

Wade v. Arizona State Retirement System – The SGO worked with the Agency Counsel Section to prepare a petition for review of the court of appeals decision holding that employer payments to a deferred compensation plan was compensation for purposes of calculating retirement benefits and that the plaintiff was entitled to attorneys' fees. The petition argues that the court of appeals misconstrued the statute that defines retirement benefits and its decision holding that plaintiffs' lawsuit arose out of contract conflicts with another decision of the court of appeals.

Employment Termination Appeals – In 2012, the Legislature amended many of the statutes governing state employee termination proceedings, which in turn resulted in litigation concerning the correct standard to be applied to appeals of state terminations. The SGO worked closely with the Employment Law Section in four cases appealed to the Arizona Court of Appeals to ensure that the State's briefs consistently and cogently argued

¹ The cases summarized do not constitute all appellate matters in which Solicitor General's Office lawyers had substantial involvement during the past year. Our purpose is not to provide an exhaustive list of such cases, but to illustrate the breadth and depth of our involvement in the appellate arena by highlighting several representative cases.

Solicitor General's Office

the correct interpretation of the amendments and their effect on existing statutes. The State was successful in two of the four cases and two of the four cases resulted in published opinions, *Berndt v. Arizona Department of Corrections* and *Lewis v. Arizona State Personnel Board*.

ACLU v. Arizona Department of Child Safety – In this case, the SGO worked with the Protective Services Section to uphold a superior court decision holding that the Department was not required to produce certain records from its database in response to the ACLU's public records request. The court of appeals held that when "a state agency maintains public records in an electronic database, Arizona's public records law requires the agency to take appropriate steps to query and search its database to identify, retrieve, and produce responsive records for inspection," but that "Arizona's public records law does not require the agency to tally and compile previously untallied and un-compiled information or data available in that database."

The Solicitor General's Office also participates in all the state court civil appeals in the Attorney General's Office by evaluating whether to take appeals, substantially editing briefs, and preparing advocates for oral argument. These appellate matters involve a broad range of legal issues, including state and federal constitutional law, tax law, juvenile law, administrative law, employment law, tort law, and workers' compensation law.

D. Upholding Arizona Election Laws and Practices

In fiscal year 2016, attorneys from the Solicitor General's Office continued to represent the State in ensuring that Arizonans' right to vote and participate in fair elections remained secure.

Brakey v. Reagan – The SGO represented the Secretary of State in a challenge to Arizona's 2016 Presidential Primary Election. After a two-day hearing, the superior court granted judgment in favor of the state and county defendants.

Arizona Libertarian Party v. Reagan – The SGO represented the Secretary of State in federal district court in this lawsuit that challenges the constitutionality of a 2015 amendment that changes the number of signatures that a candidate needs for a valid nomination petition, which is a requirement for being placed on the primary ballot, and the number of write-in votes that a candidate needs to receive in the primary in order to be placed on the general ballot. The district court denied preliminary injunctive relief as to both challenges.

Feldman v. Arizona Secretary of State's Office – In this lawsuit, the Democratic Party and other plaintiffs challenged certain Arizona election practices and laws including a new law concerning who may hand-deliver early voting ballots to the polls (HB 2023) and a long-standing law that requires voters to vote in the correct precinct. The plaintiffs alleged that the laws violate the Voting Rights Act and the First and Fourteenth Amendments and requested preliminary and permanent injunctive relief.

Malnes v. State – This federal court lawsuit involves a challenge to the constitutionality of the Arizona law that prohibits a person from registering to vote if he has been convicted of a felony and his civil rights have not been restored. The district court granted the State and Secretary of State's motion to dismiss. The plaintiff has appealed to the Ninth Circuit.

Solicitor General's Office

Leach v. AIRC – Plaintiffs alleged in state court that the AIRC violated the Arizona Constitution by failing to follow the required steps in drafting the congressional map. Discovery is still ongoing. The court lifted the stay of this litigation in light of the Supreme Court’s resolution of *Arizona State Legislature v. AIRC*.

E. Campaign Finance Enforcement

Due to a staff shortage in the Secretary of State’s Office, there were no campaign finance enforcement referrals to the Solicitor General’s Office in fiscal year 2016.

F. Lobbying Enforcement

The Secretary of State is the filing officer for lobbyists. Under the lobbying statutes, principals and public bodies that engage in lobbying must register with the Secretary. In addition, the principals and public bodies must file annual reports and designated lobbyists and designated public lobbyists must file quarterly reports with the Secretary. The Secretary’s Office refers persons and entities who fail to comply with the registration and reporting requirements to the Solicitor General’s Office as reasonable cause matters. In this fiscal year, the Secretary’s Office continued to make lobbyist enforcement a higher priority than in previous years. The Secretary referred 42 lobbyists for failure to file the 2015 first quarter report, and 28 for failure to file the 2015 second quarter report. Of those, this office worked with the Secretary’s Office to bring 67 lobbyists into compliance. The Secretary also referred 75 public bodies and principals for failure to file the 2014 annual report; 74 have currently been brought into compliance.

G. Arizona’s Clean Elections Act

Attorneys from the Solicitor General’s Office continued to advise the Citizens Clean Elections Commission. This included a variety of legal questions. Our office also participated as legal advisor in public hearings with the Commission.

H. Nominating and Initiative Petitions Litigation

The Secretary of State was named as a party in 15 nomination petition challenges and 3 initiative petition challenges. In each of these cases, a qualified elector sued to disqualify the real party in interest candidate or initiative from the ballot. The Secretary of State is an indispensable party that must be named in challenges against congressional, statewide, and legislative candidates.

I. Other Election Matters

The SGO also engaged in a number of other activities intended to maintain the integrity of state elections. The SGO conducted several investigations into the misuse of public resources and provided ongoing advice on matters related to voter registration and election administration to the Secretary of State’s Office.

Solicitor General's Office

Attorney General Opinions

The Solicitor General's Office coordinates the drafting and publication of Attorney General opinions. In fiscal year 2016, the Attorney General received 28 opinion requests and issued 17 formal opinions. Those opinions addressed topics including the use of public funds to influence the outcomes of elections; hand count election audits; whether parents may opt their children out of statewide assessment tests; the impact of the Reed v. Gilbert U.S. Supreme Court ruling on Arizona law; the authority of county supervisors related to a county assessor; licensing requirements for third party contractors operating photo enforcement systems; DCS authority to interview children; and potential liability of a state agency for complying with Proposition 123.

AGO Library and Research Services (LRS)

The Solicitor General's Office assumed management responsibility for the AGO law library in fiscal year 2009. Since that time the library has tracked library usage, streamlined procedures for ordering books, increased legal research training opportunities, drafted successful grant proposals for the Office, reduced the budget monies spent on print materials, created a virtual law library on the Office's Intranet, and placed an increased emphasis on electronic research tools.

While library interactions and usage by AGO researchers increased by 21% in fiscal year 2016, budget monies spent on both print and electronic materials decreased. Moreover, access to commercial electronic legal research databases expanded while the cost of providing these resources will remain below 2011 and 2012 contract expenditure levels through contract year 2018.

Ethics

During fiscal year 2016, an Assistant Solicitor General continued to serve as Ethics Counsel to the office. A general summary of the services she provided follows:

- Provided daily office-wide assistance and advice on a broad range of ethical issues, including: attorney ethics; judicial ethics; public employee ethics; secondary employment and volunteer activity; and conflict of interest and screening.
- Served as Chair of AGO Ethics Committee and assisted the AGO CLE Committee.
- Served as back up for SGO Independent Advice attorney (prior to the dissolution of that position in the spring of 2016) and provided advice to various Boards and/or Commissions as needed.
- Coordinated revision of the Arizona Agency Handbook.
- Served as a presenter for internal training program.

OMLET

The AGO's Open Meeting Law Enforcement Team (OMLET). OMLET consists of attorneys from every division in the AGO and focuses on investigating and enforcing Arizona's open meeting laws. In fiscal year 2016, the team consisted of 15 section chiefs who were responsible for assigning OMLET complaints to attorneys within their sections.

In fiscal year 2016, the team opened investigations of 36 public bodies. Often, these public bodies have more than one formal complaint filed against them. In the last fiscal year, the team resolved matters involving 38 public bodies. Presently, there are investigations open against 62 public bodies. Team members investigate complaints of open meeting law violations from members of the public and work with public bodies to bring them into compliance with the law. The investigative process involves corresponding with attorneys and members of the public body and, when necessary, conducting depositions of witnesses. In some cases, the team must commence enforcement actions in superior court to bring a public body into compliance with the law. [In fiscal year 2016, OMLET was reassigned to the State Government Division's Administrative Section].

Operations Division



Director Leslie Welch

MISSION:

In support of the Attorney General's Office, the Operations Division is a team of professionals committed to providing the highest quality internal and external customer service in the most efficient and cost-effective manner consistent with State of Arizona laws, policies, and best practices.

Division Summary

The Operations Division is made up of Human Resources, Procurement, Facilities Management & Planning, Budget/Financial Services and Information Systems.

Information Services Section

The Information Services Section (ISS) is comprised of system engineers, software developers, litigation support professionals, and help desk technicians. ISS is responsible for managing the information technology infrastructure as well as providing technical support services.

Overview of Accomplishments

Consumer Information and Complaint System (CICS) – Replaced a 15 year old computer system that provides the ability to submit complaints online with supporting documentation. The new system provides a means to ingest online complaints without data re-entry and generate automated responses to the public.



Tobacco Enforcement System (TES) – Implemented a new computer system to support agents who conduct in-the-field compliance inspections on tobacco retailers to ensure that they prohibit the sale of tobacco to minors. Using 4G connected tablets, agents can establish GPS guided inspection routes, access retailer violation history, and issue citations.



Operations Division

WiFi for Remote Sites – Expanded the AGO secure wifi infrastructure to include all 18 AGO locations. The project deployed 40 centrally managed wifi access points (APs) to 15 locations. The centralized management enables graceful transitions for wandering mobile devices between APs and utilizes existing AGO login credentials for authentication.

Discovery Processing System – Implemented a discovery processing system that has the ability to extract electronically stored information (ESI) from hard drives, jump drives, optical disks, and compressed file formats. The system enables litigation support staff to process large volumes of the ESI data quickly so that it can be loaded into a litigation support system for legal analysis and trial preparation.

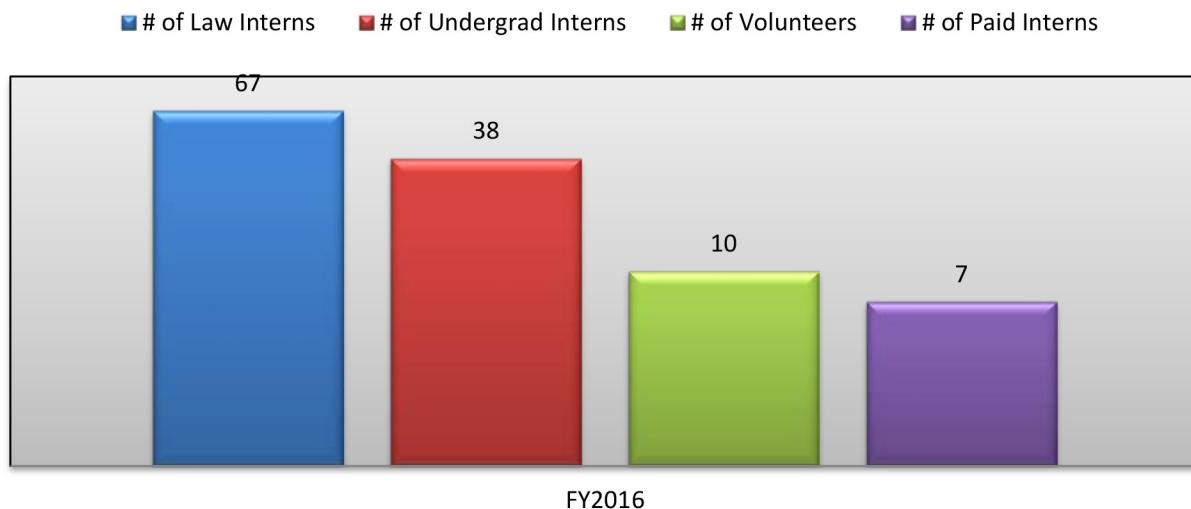
Storage Management System – The AGO virtualized its Storage Area Network (SAN) environment. The virtualized SAN enhanced several data storage management capabilities including: the ability to modify drive distribution for a server volume on-the-fly; ability to tier data file storage by frequency of access (e.g. store infrequently accessed data on slower and higher density disks); and ability to move live server volumes between buildings.



Human Resources Section

The Human Resources Section (HRS) oversees all activities necessary to develop, support and manage the Attorney General's workforce—from recruitment through retirement. The section strives to provide high quality customer service to all prospective, current and past employees. Human Resources supports all vital personnel functions, specifically focuses on management and processing of personnel actions, enforces compliance with federal and state employment regulations, recruitment, on-boarding, employee benefits, medical leave requests, accommodations and industrial injuries.

Intern & Volunteer Program



Operations Division

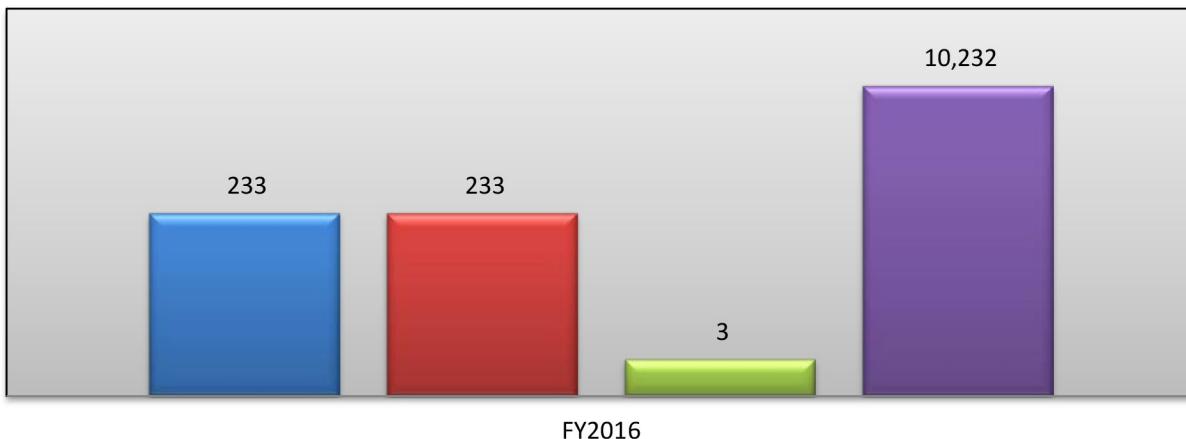
Overview of Accomplishments

- Affordable Care Act implementation and tracking
- Benefit Open Enrollment and Wellness events
- Classification Update for Accounting and Auditor positions
- Expanded Internship Program
- EEO Plan
- FLSA Law change notifications and implementation plan
- Improved New Employee Orientation for efficiency
- Instituted the use of new electronic I-9 and Onboarding systems for new hires
- Merit Incentive Program roll out for FY2016
- PSPRS Cancer Insurance Program reporting and invoice payment
- Supervisor Training (FMLA, Worker's Compensation, Hiring)
- Transfer of more than 400 DES and DCS funded positions to AGO operational oversight
- Worker's Compensation reporting (OSHA)



Recruitment

■ Advertisements Placed ■ Hire Lists Processed ■ Job Fairs YTD ■ Resumes Received to Process



Operations Division

Budget & Finance Section

The Budget and Finance Section is responsible for all agency financial functions including, payroll, accounts payable, general ledger, fixed assets, financial reporting, budget preparation and monitoring and grants management.

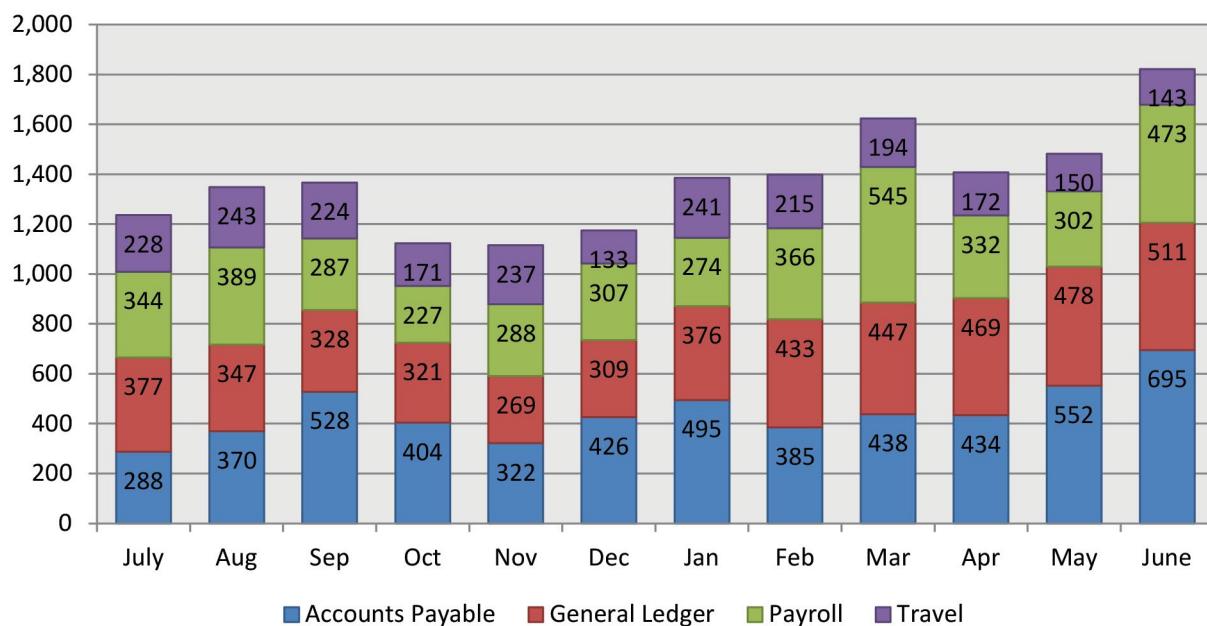
For nearly 20 years, the State used the same accounting system. In fiscal year 2016, the AGO along with other State agencies implemented a new accounting system. This past year proved to be very challenging as every process and procedure in accounting and budget changed.

Tremendous amounts of time were dedicated to training, learning and resolving the nuances of the system.



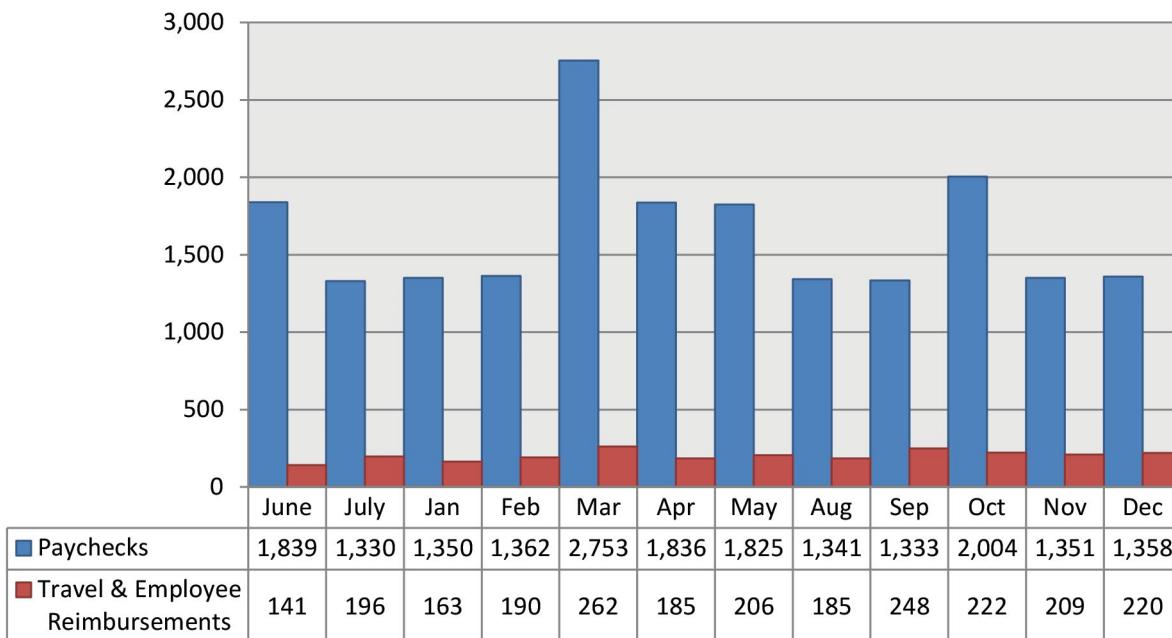
Accounting received a total of 16,487 email requests. (99% of emails had an average response time of 14.48 hours).

Customer Requests via Email



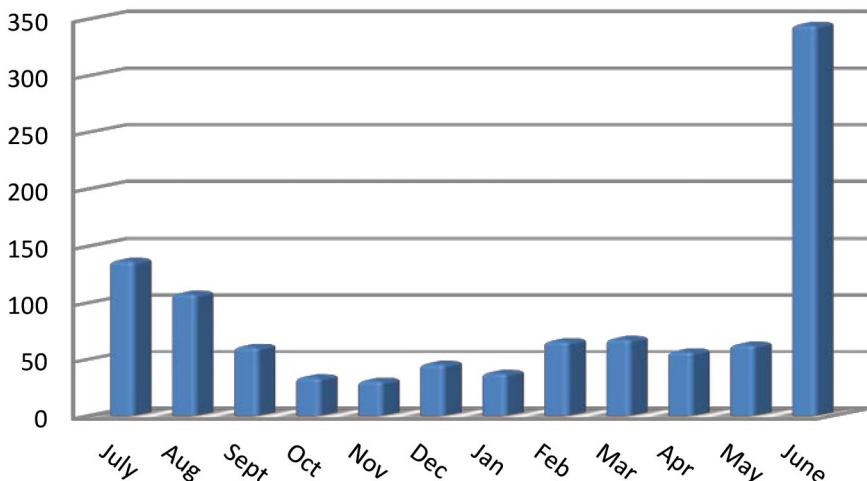
Operations Division

Paychecks Issued and Travel & Employee Reimbursements Processed



- Payroll issued 19,682 paychecks to employees and 2,427 travel & employee reimbursements.
- In March 2016, payroll and travel for PSS employees was transitioned from the Department of Child Safety to the AGO resulting in a more than a 30% increased workload.
- \$26,208,076 in payments were issued to vendors.
- 12,414 deposits were processed totaling more than \$47 million dollars.
- 1,051 transfers (electronic transfer of funds) were completed between the AGO and other state agencies.
- 1,054 budget transactions were posted.

Budget Transactions Fiscal Year 2016

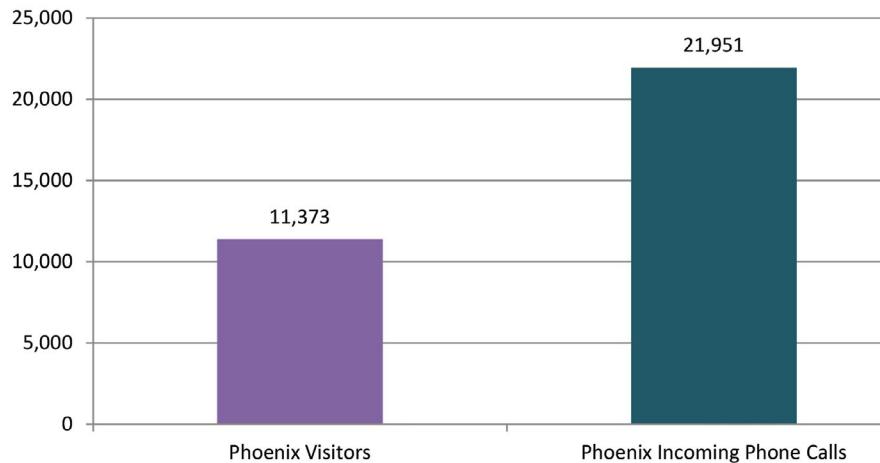


Facilities Management & Planning Section

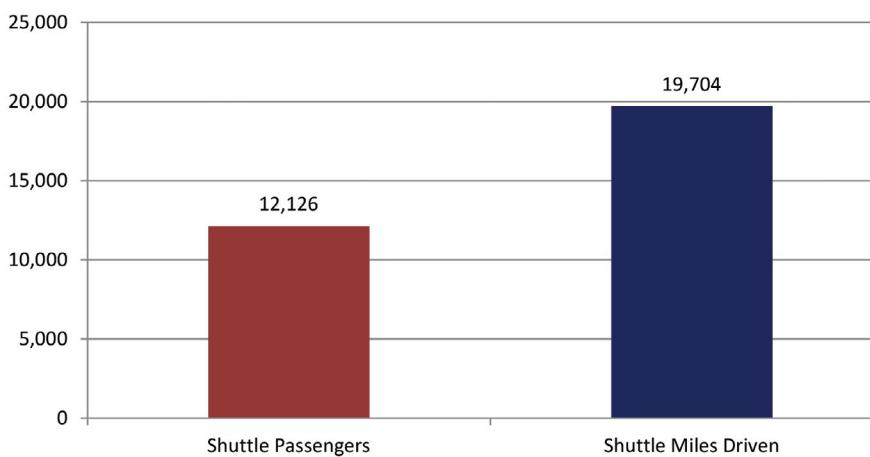
The Facilities Management and Planning Section (Facilities) manage the day-to-day operations and maintenance of the agency's occupied buildings and office spaces. Primary areas of focus include:

- **Daily Operations:** Coordination of maintenance and building renewal; surplus; tenant improvement projects; consultation with division management in the areas of space planning, employee moves and furniture requests, telecommunications service needs across the agency; as well as agency fleet vehicles and parking assignments.
- **Safety and Security:** The program development and system oversight includes physical security system operations, evacuation procedures, and continuation of operations planning, as well as employee awareness campaigns designed to maximize personnel safety and security.
- **Central Services:** Centralized services in shuttle transportation, mail room operation, main building receptionist functions, electronic imaging, and copy center services that support the needs of the agency. In FY2016, the Copy Center processed over 716,000 pages for large format copy jobs and the mail room processed nearly 140,000 pieces of outgoing mail.

Reception



Employee Shuttle



Operations Division

Procurement Section

The Procurement Section (PRS) is responsible for direct contracting and purchasing goods and services as well as management of service contracts for the office. The PRS endeavors to provide high professional procurement standards including (1) a valued resource to the office providing effective procurement strategies to support agency goals and maximizing the value of public monies; (2) equitable treatment of all vendors and (3) complying with all AZ State procurement statutes and rules.

Responsibilities Include:

- Cellphone Administrator
- Travel Card Administrator
- P-Card Administrator
- Central Travel Account Administrator
- ProcureAZ Administrator
- Office Supply Account Administrator
- Procurement Services:
 - Approve All AGO purchases
 - Manage, create, advertise, evaluate and award all AGO procurement solicitations
 - Review and Sign all contracts and Agreements for the AGO
 - Facilitate procurement processes for the AGO

Overview of Accomplishments

- 3 formal solicitations to award contracts to utilize settlement funds
- 2 formal solicitations to purchase software
- Solicit and award the Outside Counsel Contract for Calendar Year 2016 to approximately 100 firms.
- Negotiate multiple outside counsel agreements to support high profile class action and other cases.



Civil Litigation Division



MISSION:

To enforce state law against those who violate the civil rights, or threaten the economic and environmental well-being of Arizonans.

Director Paul Watkins

Division Summary

The Civil Litigation Division consists of the Consumer Protection and Advocacy Section, Environmental Enforcement Section, Division of Civil Rights Section, and Bankruptcy Collection and Enforcement Section.

Consumer Protection & Advocacy Section

The Consumer Protection & Advocacy Section protects the public from consumer fraud and anti-competitive conduct; educates the public regarding consumer protection issues; enforces tobacco laws and protects youth from exposure to tobacco products; and provides legal advice and representation to client agencies. The Consumer Protection and Advocacy Section (“CPA”) contains the Consumer Litigation Unit (with offices in Phoenix and Tucson), the Consumer Information and Complaints Unit, and the Agency, Antitrust, and Tobacco Enforcement Units. CPA handles hundreds of cases and responds to thousands of consumer complaints each year.

Overview of Accomplishments

- Prevailing in the e-books litigation against Apple and securing \$8.6 million in refunds for Arizonans who paid artificially inflated prices for e-books.
- Suing Volkswagen for defrauding thousands of Arizona consumers who bought supposedly “clean” diesel vehicles that in reality were designed to hide the true level of emissions they produced.
- Winning a Court of Appeals decision for the Department of Financial Institutions establishing that companies exercising substantial control over client funds “receive” money and are therefore subject to debt management licensing requirements.
- Achieving the lowest fail rate in the Youth Tobacco Program’s history – 13.3% compared to 17.3% in the previous two years – indicating increased compliance with Arizona laws banning sales of tobacco products to minors.

Civil Litigation Division

Consumer Litigation Unit

The Consumer Litigation Unit (“CLU”) enforces consumer protection laws, including the Arizona Consumer Fraud Act. The Consumer Fraud Act prohibits deceptive and unfair business practices in connection with the sale or advertisement of merchandise. Based largely on consumer complaints, CLU investigates potentially unlawful practices and pursues enforcement actions when violations of law are found. Remedies include restitution for consumers, court orders prohibiting future unlawful conduct, and civil penalties, among others.

Auto Sales and Repairs



CLU pursued a wide variety of cases involving motor vehicle sales and repairs, as auto-related complaints once again topped the list of consumer concerns this year.

Volkswagen’s Emissions Fraud

State of Arizona v. Volkswagen AG; Audi AG; Porsche - In April 2016, CLU sued Volkswagen (“VW”), Audi, and Porsche for violating the Arizona Consumer Fraud Act by falsely advertising, selling and leasing thousands of supposedly “clean diesel” cars. As VW has publicly admitted, it installed undisclosed devices in its diesel engines that made its diesel vehicles appear in emissions testing to be cleaner and more fuel efficient than they actually were. Not only did VW conceal its diesel engines’ true performance with these devices from 2008 through 2014, but it also aggressively promoted its vehicles in Arizona during the same period as being “clean,” “green,” and generally more economical than competing gas-powered cars. The State won its first victory in the case by defeating VW’s efforts to have the case decided in federal rather than state court. Litigation in Maricopa County Superior Court is ongoing.

Continuing Auto Repair Stings

State of Arizona v. Haros; Salinas; GBY Transmission - CLU pursued a motor vehicle repair shop this year that falsely advertised low prices it did not honor and charged consumers for auto repairs they did not need. After receiving multiple consumer complaints, the State initiated an undercover sting of GBY Transmissions. The State’s expert rigged the “bait car” so that a defect could be easily diagnosed and inexpensively fixed. Instead of making the appropriate repairs, GBY Transmissions claimed that the vehicle needed a complete transmission rebuild and charged \$1,010.69 for unnecessary repairs and parts that were not replaced. The settlement requires the owners to disclose all potential charges in writing prior to performing any repair services, and prohibits them from charging for additional repairs exceeding the original estimate. In addition, the defendants agreed to pay a total of \$50,000 for consumer restitution, civil penalties, and attorney’s fees.

Used Motor Vehicle Sales

State of Arizona v. Discount Auto Sales; Shahara - CLU negotiated a \$125,000 consent judgment with Discount Auto Sales, LLC, a Phoenix- based seller of used motor vehicles. The investigation was prompted by consumer complaints alleging that Discount Auto had sold damaged vehicles without fully disclosing the vehicle’s accident, ownership and repair history. As described in the complaint, the titles consumers received were not marked as

Civil Litigation Division

salvaged, but when the consumers went to sell the vehicles they learned that former insurance company owners had declared the vehicles totaled. The consent judgment prohibits Discount Auto and its owner from advertising or selling vehicles that were previously owned by an insurance company, without disclosing how they purchased the vehicle, what condition it was in, and what repairs were performed; making any type of false statement or material omission regarding the condition, repair, or accident history of vehicles offered for sale; and advertising or selling vehicles that have not been inspected for defects.

State of Arizona v. Front Line Auto Auction, LLC, d/b/a Uncle Joe's Auto Sales and its owners, Gina Colombo and Joseph Careccia - This year, CLU resolved its 2015 lawsuit against Front Line Auto Auction, for defrauding consumers in their sales and financing practices. In the consent judgment, the owners admitted they misrepresented the condition of the motor vehicles they sold and overcharged consumers for various fees. The consent judgment bans the owners from selling or financing vehicles unless employed by a dealership selling both new and used motor vehicles. The settlement also provides for consumer restitution of \$70,000, plus \$365,000 in civil penalties and costs, of which \$335,000 will be waived if the owners comply with the judgment. Based on this enforcement action, the Department of Real Estate revoked Gina Colombo's real estate license.

State of Arizona v. Stevens, Richard; d/b/a A&D's Auto Care; Desert Paving (sic) Anthony Stevens; David Stevens - Defendants sold automobile repair, collision repair, auto detailing and other automobile-related and paving services to consumers in Pima County, but failed to complete the services for which they were paid. CLU obtained a default judgment that bars Defendants from engaging in automobile and paving activities in Arizona and requires payment of more than \$110,000 in consumer restitution, civil penalties, and attorneys' fees.

Consumer Fraud Judgment Enforcement

State of Arizona v. Kennedy, Claude Thomas - Ensuring that companies and their owners comply with consumer fraud judgments is a top priority for the Consumer Litigation Unit. When Defendants fail to deal honestly with consumers as required by court order, enforcement action is taken. This year, CLU discovered that Claude Thomas Kennedy was violating a 2010 consumer fraud judgment that banned him from selling, purchasing, or leasing motor homes. In fact, CLU's 2015 investigation revealed that Kennedy was engaged in essentially the same fraudulent sales practices that gave rise to the earlier judgment. After hearing consumers testify about their recent experiences, a Pima County Superior Court judge found Kennedy in contempt of court and ordered him to pay a \$100,000 fine to the State. When he failed to pay the fine - or even try to do so - the court issued a warrant for his arrest.

State of Arizona v. Prieto's Auto Sales, Inc. - This year CLU shut down Prieto's Auto Sales, Inc., a used motor vehicle dealership in Phoenix, after the business and its owners violated two prior consumer fraud settlements. Despite a 2006 Assurance of Discontinuance and a 2014 consent judgment requiring Prieto's to extensively reform its business practices, consumers continued to file complaints about the dealership. CLU filed a contempt action in 2015, which led to an Addendum to the 2014 judgment. That Addendum prohibits Prieto's Auto Sales, Inc. and Gustavo Prieto from selling or financing motor vehicles in Arizona. The Addendum also requires Prieto's to pay over \$139,000 to the State and for consumer restitution. If defendants fail to comply with the consent judgments, they could be subject to an additional \$500,000 penalty.

Telemarketing Fraud

State of Arizona v. AJ's Auto Glass LLC; Machelski - In June 2016, CLU filed two cases alleging violations of Arizona's Do Not Call laws. The first lawsuit, against AJ's Auto Glass in Prescott, alleges that the company conducted illegal telephone solicitations – either directly or through a third party solicitor – by calling telephone numbers that were on the Federal Trade Commission's Do Not Call Registry. The lawsuit also alleges that the company continued to solicit consumers over the telephone after they asked not to be called, which is a separate violation of Arizona law. The lawsuit requests appropriate injunctive relief, civil penalties, and attorneys' fees and costs.



Civil Litigation Division

State of Arizona v. Larmore Auto Glass, LLC - CLU's second Do Not Call lawsuit was filed against Larmore Auto Glass, LLC, for its telephone solicitation practices going back to at least 2012. The lawsuit accuses Larmore of marketing its auto glass installation services using illegal telephone solicitation practices, including sales calls that used prerecorded messages to market services - or "robo calls." Larmore allegedly also placed repeated calls to consumers who previously requested that Larmore stop calling, and called consumers who registered their phone numbers with the federal Do-Not-Call registry. That lawsuit is ongoing as well.

\$6 Million Judgment in Business Opportunity Fraud Case

State of Arizona v. Chelliah - This year, CLU resolved a 2012 lawsuit filed against several individuals and companies involved in an elaborate telemarketing enterprise that bilked millions of dollars from mostly senior consumers nationwide. According to more than 350 consumer complaints, the defendants solicited consumers by phone, promised substantial commissions if consumers would invest hundreds - and then thousands - of dollars in an online credit card processing website, but then failed to deliver on their promises. After granting CLU's motion for summary judgment, the court entered a \$6 million judgment against five of the remaining defendants for their roles in the scheme. The ruling ordered the defendants to pay a total of \$897,946 in consumer restitution. Three of the defendants - Blain Scribner, Vanessa Fitzgerald, and Chalonne Foerster - were also ordered to each pay \$760,000 in civil penalties. The court assessed treble damages in the amount of \$2,693,838 for violations of Arizona's racketeering laws and attorneys' fees and costs of \$163,587. All defendants also are banned from engaging in telemarketing and the sale of business opportunities in the future.

"Go Green" Telemarketing Calls

State of Arizona v. Paniolo Builders, LLC - Defendants provided energy related products to Arizona consumers, including solar water heaters, photovoltaic solar systems, and duct sealant. Go Green LLC bought the company and established a call center to tele-market Paniolo's solar products. Prompted by numerous consumer complaints, CLU began investigating and ultimately reached a consent judgment with Go Green and Paniolo in August 2015. The judgment prohibits Paniolo from violating federal Do-Not-Call Registry regulations, calling consumers who have asked not to receive telemarketing calls, making deceptive statements during sales presentations, and overstating expected energy savings. The defendants are also required to pay \$100,000 in civil penalties (\$75,000 of which is suspended if there is full compliance with the judgment), \$25,000 in consumer restitution, and \$15,000 in fees and costs.

State of Arizona v. Condosmart LLC, et al. - In August 2015, CLU filed suit against Condosmart LLC, its owner and related companies for their telemarketing and time share resale and rental advertising practices. According to the complaint, Condosmart made unsolicited telemarketing calls to consumers who owned timeshare properties. Condosmart allegedly represented that consumers had bonus weeks available through their timeshare exchange companies that Condosmart would rent to its clients - for a profit to consumers - if consumers first paid an up-front fee to Condosmart. Consumers did not, however, receive the promised rental income according to the lawsuit, which alleges violations of both the Consumer Fraud Act and the Telephone Solicitations Act. Litigation is ongoing.

State of Arizona v. The Publishers Service Office - To sell magazine subscriptions, Burudi Mwonyoni and his company, Publishers Service Office, used an auto-dialer to place 48,000 telephone calls a month to consumers throughout the country. The company manipulated caller ID's to make it appear as though the calls were coming from the state or area code in which the consumer lived and falsely represented their authority to bill for magazine

Civil Litigation Division

publishers, according to the consumer fraud lawsuit filed in this case. CLU obtained a default judgment imposing an \$110,000 civil penalty and prohibiting defendants from soliciting consumers over the telephone to purchase a periodical subscription or from requesting or receiving payment from a consumer for a periodical subscription.

Mortgage and Real Estate

Despite the improved economy since the foreclosure crisis, CPA continued to receive a significant number of consumer complaints regarding mortgage and real estate issues in fiscal year 2016.



Foreclosure-Related Scams

State of Arizona v. Diaz, Ruben; Diaz, Rodrigo; ProSolutions - In April 2016, CLU filed a consumer fraud and civil racketeering lawsuit against Ruben Diaz, Rodrigo Diaz, and the many entities through which they offer real estate services. According to the lawsuit, defendants held themselves out to the Spanish speaking community as mortgage/short sale consultants who would assist consumers with a variety of real estate matters, including securing short sales, connecting consumers with hard money lenders, and negotiating real estate purchases. Defendants allegedly accepted consumer payments without rendering services, misappropriated consumer deposits, sold houses to consumers while maintaining liens against the property, and misled consumers about their real estate contracts. CLU asked the court to ban defendants from these practices until the lawsuit is finally resolved. Litigation is continuing.

State of Arizona v. Phillips Law Center, PLC - In September 2015, the court approved a consent judgment between the State and Brent Phillips and Phillips Law Center, P.L.C., resolving a 2014 consumer fraud lawsuit. According to the complaint, defendants sent out approximately 20,000 mailers to Arizona consumers that falsely appeared to be coming from the consumer's mortgage lender. The mailer allegedly created the misleading impression that a consumer's mortgage payment could be reduced, and that the mortgage terms could be "restructured." The consent judgment bans the California-based defendants conducting mortgage loan modification services in the State of Arizona or on behalf of Arizona consumers. The judgment also provides for consumer restitution of \$65,000, \$15,000 for attorneys' fees, and \$450,000 in civil penalties (\$400,000 of which are suspended upon full compliance with the judgment).

National Mortgage Loan Servicing Settlement

State of Arizona v. HSBC Mortgage Services, Inc. - In February 2016, CLU joined a state and federal settlement with HSBC, resolving allegations relating to HSBC's unlawful mortgage loan origination and servicing practices. Overall, HSBC promised to provide a nationwide total of \$470 million in various forms of relief. Arizonans are expected to receive approximately \$2.6 million in direct payments for foreclosed borrowers and more than \$4 million in loan modifications as a result of the agreement. HSBC is also required to comply with strict loan servicing standards, and will be subject to testing by an independent monitor. The settlement included Arizona and 48 other states, the District of Columbia, the Consumer Financial Protection Bureau as well as the U.S. Departments of Justice and Housing and Urban Development.

Civil Litigation Division

Grant Scam

State of Arizona v. Advanced Social Media; DeRosa - Advanced Social Media offered “grant training” to consumers, claiming consumers were eligible to receive thousands of dollars in government grants they could obtain after purchasing the training program. After investigating, CLU alleged that Advanced Social Media did not have either the expertise or records to support its promises to consumers. The company also previously sold social media advertising services that purported to build a “social media presence” for consumers who had purchased a business opportunity from another company. CLU also alleged this practice was premised on misrepresentations to consumers. CLU shut down this business through two settlement agreements - one with the managing member of Advanced Social Media and another with a key figure to the business. Defendants also agreed to pay \$3,000 of investigative costs, and stay out of both grant funding training and social media advertising in the future.

Notario Fraud

State of Arizona v. Lizarraga, Ofelia Olivas; Multiservicios Olivas, LLC - In January 2016, CLU obtained a default judgment against Ofelia Lizarraga and her business, Multiservicios Olivas, LLC, for advertising services as a “notario publico” while failing to disclose that she was not an attorney, as required by Arizona law. Lizarraga also allegedly represented to consumers - from whom she required advance payment - that she would provide certain services, but then failed to either deliver the services or provide refunds. The judgment prohibits Lizarraga from advertising or providing any services related to the provision of legal advice, legal document preparation, or any service related to an immigration or nationality matter, unless she possesses all required licenses and certifications to do so. The judgment also bars Lizarraga from representing that she is a “notario publico” unless she is licensed to practice law and requires payment of more than \$30,000 in restitution, penalties, fees, and costs.



Consumer Restitution for Unfulfilled Online Purchases

All too often, CLU receives complaints from consumers who purchased merchandise online but did not receive what they paid for. In these cases, CLU works to obtain refunds and to prevent future unlawful practices. Here are a few examples of these cases from fiscal year 2016:

State of Arizona v. Saltman Enterprises; Saltcells.com; Poolandspacenter.com; Arunski, Theodore - Saltman Enterprises provided online sales and delivery of pool supplies, specifically salt water chlorinators and the parts necessary for their maintenance. Despite consumer complaints, Saltman failed to provide the supplies consumers ordered, or provide refunds. CLU obtained a settlement with Saltman agreeing to pay \$35,000 in consumer restitution and to reform its business practices.

State of Arizona v. Black Weapons Armory; Rompel - This Tucson-based business operated as a retail seller of firearms and related gear and services. Consumers reported that Black Weapons accepted amounts ranging from \$250 to \$4,000 as complete or partial down payments for the purchase of products, but then failed to deliver them. CLU negotiated an Assurance of Discontinuance that provided full restitution to consumers as well as payment of the State’s attorneys’ fees and costs.

Civil Litigation Division

State of Arizona v. Lawless Denim; James Roman Acevedo - In fiscal year 2016, the AGO began receiving consumer complaints about Lawless Denim, a manufacturer and seller of custom denim clothing. Consumers reported that Lawless Denim and its owner, Roman Acevedo, were accepting payment for orders and not fulfilling them. To resolve those complaints, Lawless Denim agreed to a consent judgment that provides for payment of up to \$20,000 in consumer restitution and \$2,000 in attorney's fees and costs, and imposes a \$250,000 penalty if timely payments are not made.

Moving Fraud

State of Arizona v. Abdalla, Amru & Emad; Allstars Moving and Storage, Inc. - This year, CLU successfully resolved its 2014 consumer fraud lawsuit against Allstars and its owners. The lawsuit accused Allstars of misrepresenting the costs



of their services to prospective customers in initial estimates, demanding payment upon reaching destinations and refusing to unload consumers' property unless consumers pay unearned and previously undisclosed fees, and of falsely representing the terms and scope of insurance coverage provided. The consent judgment reached this year includes extensive injunctive relief and prohibits defendant Amru Abdalla

from engaging in the moving, packing, and storage industry for two years and Emad Abdalla for one year. The judgment requires defendants to pay restitution in the amount of \$77,000 and civil penalties in the amount of \$107,765 (with \$50,000 deemed satisfied if the defendants fully comply with the judgment).

Prescription Drug Marketing

State of Arizona v. Amgen Inc. - Arizona and three other states led a 49-state investigation into Amgen's marketing practices of two drugs - Aranesp and Enbrel. According to the investigation, Amgen sold Aranesp, an anemia drug, for once-a-month injections instead of twice-a-month injections that the FDA had approved. Amgen also allegedly promoted Aranesp for anemia caused by cancer without FDA approval. Use of Aranesp in patients with anemia caused by cancer allegedly led to a higher risk of death. With respect to Enbrel, a psoriasis drug, the states alleged that Amgen instructed its sales force to sell Enbrel for mild psoriasis even though it was only approved for a smaller class of patients - those with moderate and severe psoriasis. The August 2015 consent judgment required Amgen to pay \$2.2 million to Arizona. The consent judgment also prohibits the company from representing that Enbrel or Aranesp are more effective, useful in a broader range of conditions or patients, or safer than is shown by competent and reliable scientific evidence.



Debt Collection Practices – Multistate Settlement with Chase

State of Arizona v. Chase Bank, USA NA - Arizona and several other states entered into a settlement with Chase Bank USA that requires Chase to significantly reform its credit card debt collection practices, especially in the areas of declarations, collections litigation, debt sales and debt buying. The agreement also requires new safeguards to help ensure debt information is accurate, provides additional information to consumers who owe debts, and bars Chase's debt buyers from reselling consumer debts to other purchasers. Chase also agreed to cease all collection efforts on more than 528,000 consumers nationwide, including an estimated 13,422 in Arizona. The agreement required Chase to pay a total of \$136 million to the participating states, of which Arizona received \$3.1 million. Under the settlement, Chase must also provide periodic updates on its progress in providing financial redress to consumers.

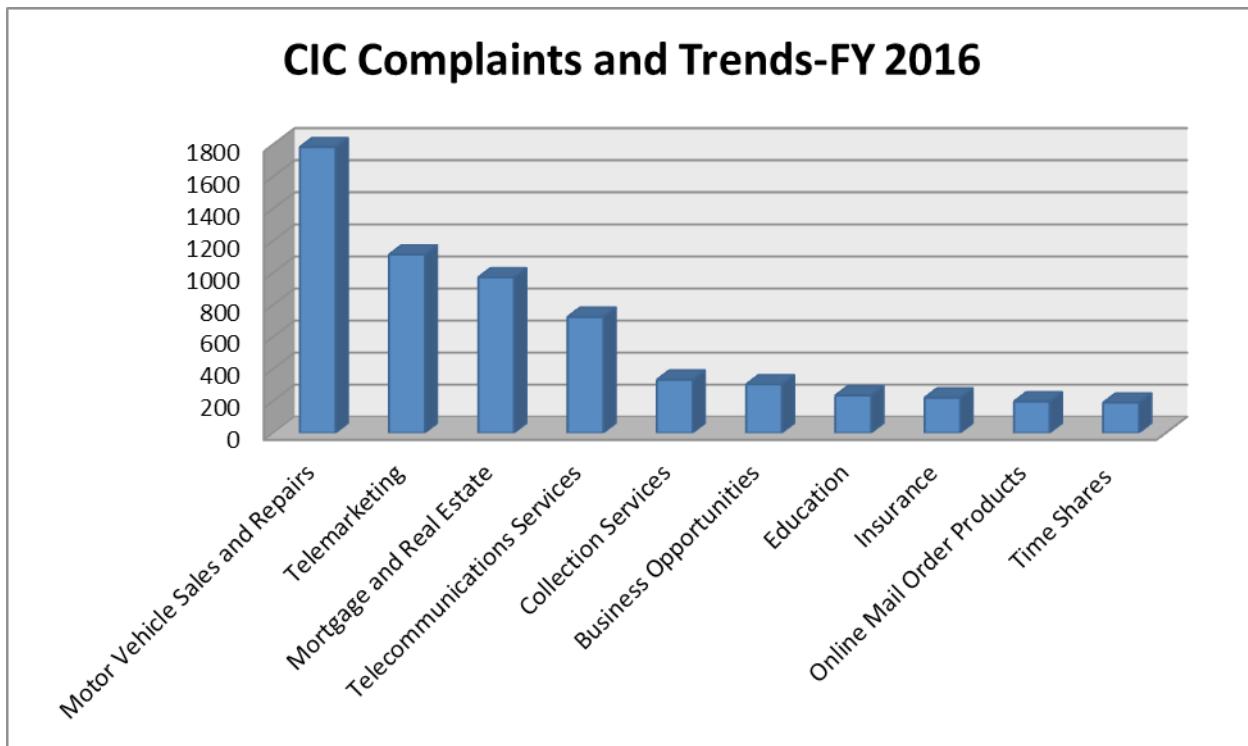
Civil Litigation Division

State v. Education Management Corporation - In November 2015, Arizona and other states reached an agreement with Education Management Corporation (“EDMC”) in connection with its operation of for-profit colleges in Arizona. The consent judgment mandates added disclosures to students, including a new interactive online financial disclosure tool; bars misrepresentations to prospective students; prohibits enrollment in unaccredited programs; and institutes an extended period when new students can withdraw with no financial obligation. Compliance with the consent judgment will be monitored by an independent monitor. Nationwide, the agreement also requires EDMC to forgive \$102.8 million in outstanding loan debt held by more than 80,000 former students, including more than \$2,700,000 in loans for approximately 2,000 Arizona former students. In addition, EDMC may be required to provide additional relief related to Brown Mackie’s nursing program in Tucson.

Consumer Information & Complaints

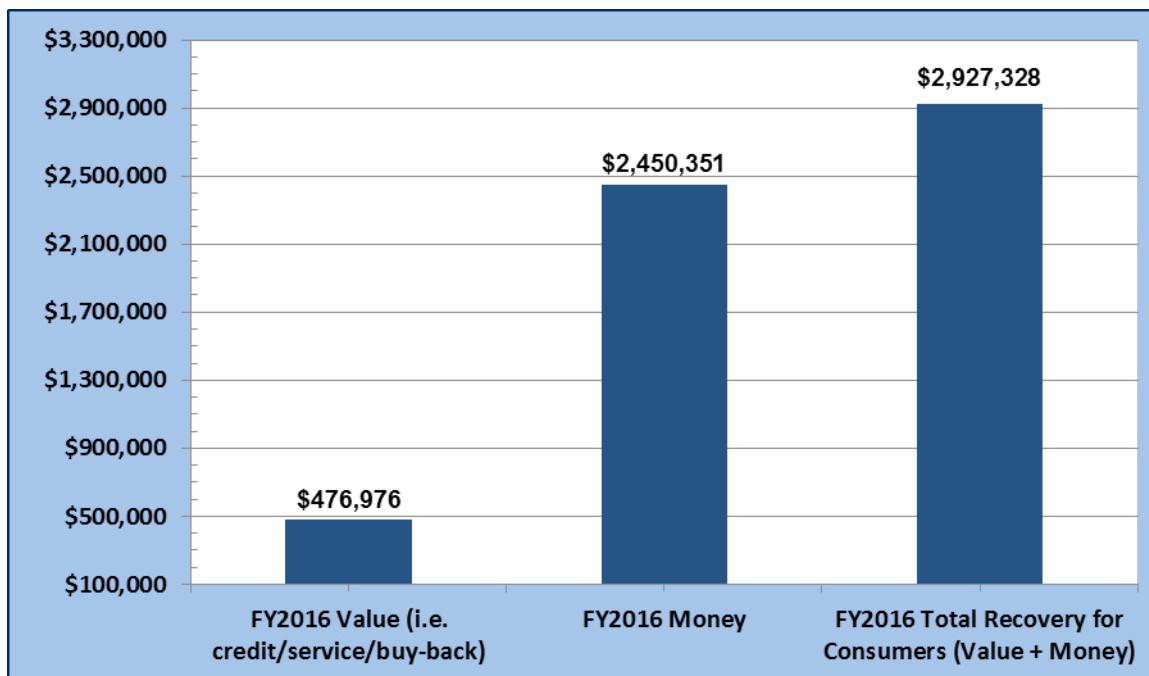
The Consumer Information and Complaints Unit (“CIC”) received nearly 16,000 consumer complaints and inquiries in fiscal year 2016. CIC staff, most of whom are bilingual in Spanish and English, answered more than 34,700 consumer phone calls throughout the year.

Common consumer complaint areas this year include the following:



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CIC staff and volunteers conciliate consumer complaints and work to obtain refunds for consumers whenever possible. In fiscal year 2016, CIC recovered a total of \$2,927,328 for consumers throughout Arizona.



Consumers may file complaints online at www.azag.gov (go to “Consumer,” then “File a Complaint”), or may request a copy of a complaint form by calling CIC [Phoenix - (602) 542-5763; Tucson - (520) 628-6648; outside Phoenix and Tucson metro areas - (800) 352-8431].

Agency Unit

The Agency Unit provides legal advice and representation to the Arizona Departments of Financial Institutions, Real Estate, Game and Fish, and Insurance. Because of the diversity of the client agencies represented, the Agency Unit addresses a broad range of legal issues at the Office of Administrative Hearings as well as in state and federal court. In fiscal year 2016, the Agency Unit successfully handled more than 150 cases involving license denial, revocation or other types of regulatory action. A few of this year's notable cases include:

JHass Group v. Arizona Department of Financial Institutions - The Department of Financial Institutions (“DFI”) and the Attorney General’s Office received numerous consumer complaints about JHaas, an Arizona-based debt settlement company. Consumers alleged that the JHaas program was not clearly explained to them, the company’s representatives were difficult to reach, and that their creditors were not paid. After investigation, DFI concluded that JHaas was acting as a debt management company but did not have the proper license to do so. Accordingly, DFI issued a cease and desist order assessing a civil monetary penalty of \$150,000. Over several

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years, JHaas disputed DFI's findings: first at the administrative level, then at the superior court, and finally in the appellate courts. In an October 2015 decision, the Court of Appeals explained that licensing requirements for debt management companies operate for the purpose of protecting consumers. In light of JHass' business model, DFI correctly required a license in this case. The Arizona Supreme Court denied review, letting the lower courts' decisions and the \$150,000 penalty stand.

Mexican Wolf Litigation



This year, the State of Arizona resolved its lawsuit filed in June 2015 against the Secretary of Interior and the U.S. Fish and Wildlife Service ("FWS") for violations of the Endangered Species Act ("ESA"). Arizona alleged in the lawsuit that the FWS had failed to develop a new recovery plan for the Mexican wolf that complied with the requirements of ESA, after the original recovery plan in 1982 expired. The parties reached a settlement in which the FWS agreed to complete a final recovery plan by November 2017. That settlement is currently awaiting court approval.

Protecting the Public from Unscrupulous Licensees

To protect the public, the Agency Unit's client agencies carefully review each application to ensure that only eligible individuals are entrusted with a state license to sell real estate, advise the public on insurance matters, or manage others' finances. The agencies also scrutinize the conduct of current licensees, and revoke licenses when unlawful conduct is identified. The Agency Unit successfully represented its clients in a number of licensing actions this year. The Department of Insurance ("DOI"), for example, revoked the license of an insurer who was criminally prosecuted for inflating insurance claims and driving up premiums for university students in another state, as well as the license of a life insurance producer who defrauded insurance companies of over \$450,000. The Department of Real Estate's ("DRE") careful monitoring of a real estate broker's compliance with a prior Consent Agreement uncovered violations of laws relating to trust accounts, tenants' security deposits and record-keeping, which in turn led to the revocation of his license.

DFI regulates a wide variety of businesses, including third party collection agencies. After an examination, DFI charged Progressive Financial Services with harassing debtors, threatening to start legal proceedings against a debtor without the intention to do so, and failing to contact debtors by telephone during reasonable hours, among other things. To resolve DFI's allegations, the company entered into a Consent Agreement and agreed to reform its conduct and pay a civil penalty of \$45,000. Another collection agency, U.S. Collections West, was cited for not dealing openly, fairly and honestly in the conduct of its collection agency business, and engaging in unfair or misleading collection practices. This company similarly agreed to resolve the matter by way of a Consent Order, to implement procedures to prevent recurrence of violations, and to pay a \$25,000 penalty to the Department.

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Antitrust Unit

E-books Litigation

State of Arizona v. E-Book Publishers; Apple - In fiscal year 2016, ATU brought its e-books litigation to a successful conclusion. ATU and other states originally sued Apple and several major publishers for fixing the prices of electronic books. The publishers settled, but Apple went to trial and lost on its claim in 2013. Apple's first appeal was unsuccessful, and in March 2016 the U.S. Supreme Court denied Apple's request to review the trial court's ruling that it had conspired to violate antitrust laws. That decision ended the appeal process and cleared the way for distribution of a \$400 million national settlement reached last year. Arizonans are expected to receive approximately \$8.6 million in refunds from Apple. Previously, as a result of the settlement with the publishers included in the original suit, Arizonans received approximately \$3,478,237 in refunds for the amounts overpaid for e-books.

Vendor Procurement Booklet

This year the Antitrust Unit created a vendor procurement booklet, Doing Business with Public Entities in Arizona, which provides information and guidance to vendors interested in doing business with Arizona public entities. The Booklet describes various procurement processes and applicable laws, defines key terms, and outlines best practices. More than 20,000 copies of the booklet have been distributed to school districts, school purchasing consortiums, the Registrar of Contractors, and contractor associations throughout the state.

Tobacco Enforcement Unit

The Tobacco Enforcement Unit ("TEU") diligently enforces Arizona's tobacco laws to protect the State's payments due under the 1998 Tobacco Master Settlement Agreement ("MSA"). In 2016, Arizona received approximately \$100 million in total MSA payments. Since 1998, tobacco manufacturers have paid approximately \$1.8 billion to the State. Under state law, MSA funds are dedicated to the Arizona Health Care Cost Containment System ("AHCCCS") for health care.

TEU employs a multi-prong approach to enforce tobacco laws and is engaged in a number of discrete activities in collaboration with other state and federal agencies. A few highlights of TEU's work in fiscal year 2016 include the following:

Youth Tobacco Program

TEU continued to successfully operate the Youth Tobacco Program in fiscal year 2016. With the assistance of youth volunteers, the Arizona Department of Health Services and local law enforcement agencies, TEU systematically monitors retailer compliance with state laws prohibiting the sale of tobacco products - including electronic cigarettes - to minors. In fiscal year 2016, the program performed 2003 undercover inspections of tobacco retailers, resulting in 472 criminal citations issued to clerks and businesses who sold tobacco products to youth volunteers. If a retailer sells a tobacco product to an underage volunteer, the sales clerk may be cited for furnishing tobacco to a minor, a petty offense with a potential fine of \$300. The business may also be fined

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up to \$1000 per offense. Over 27,000 retail inspections have been performed since the program's inception in 2002. Finally, failure rates have been at historic lows throughout fiscal year 2016, and the fiscal year 2016 failure rate is the lowest annual fail rate that the program has ever observed: 13.3%, compared to 17.3% in the previous two years.

Enforcing Ban Against Online Tobacco Sales

Arizona law prohibits tobacco companies from selling cigarettes and roll-your-own tobacco products online, and in fiscal year 2016 TEU continued to pioneer a new enforcement process. By conducting undercover purchases online and determining whether those sales complied with federal interstate delivery reporting requirements, TEU identified numerous companies that were violating state and federal law. TEU then nominated those companies for inclusion on the "non-compliant list" maintained by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF"), which essentially bans the company from selling tobacco anywhere in the country. TEU has nominated 116 websites that sold and shipped into Arizona to the ATF non-compliant list, more than all the other states combined. TEU also works closely with credit card companies to identify and take appropriate action against merchants that sell tobacco products online in violation of Arizona law. As a result of these efforts, dozens of websites have stopped offering to sell cigarettes or roll-your-own tobacco to Arizona consumers.



Enforcing the Escrow and Directory Statutes

State law requires any tobacco product manufacturer selling cigarettes to Arizona consumers to either (1) join the Tobacco MSA by becoming a "participating manufacturer" (PM); or (2) place certain sums of money into a qualified escrow fund for the benefit of Arizona based on the number of sales made in the state as a "non-participating manufacturer" ("NPM").

TEU enforces laws that apply to both types of manufacturers. Among other things, TEU (i) determines the identity of the NPMs which had sales in Arizona during a given year; (ii) calculates the total volume of sales for each NPM; (iii) determines the escrow liability based on a set statutory rate; and (iv) demands the requisite funds be timely deposited into a "qualifying escrow fund." If an NPM refuses to comply with the Escrow Statute, TEU initiates litigation to obtain compliance. TEU is also assisting the Arizona Department of Revenue ("ADOR") with tobacco tax enforcement issues that relate to and enhance the enforcement of the escrow statute. TEU has again worked diligently to receive total compliance with the Escrow Statute.

TEU also enforces the Directory Statute, pursuant to which the Attorney General's Office publishes on its website a list of the PMs and NPMs allowed to sell cigarettes in Arizona as well as the accompanying permitted brands. If a brand is not listed, it cannot be sold in Arizona. TEU reviews initial and annual certifications submitted by tobacco companies requesting to be listed in the Directory, and takes appropriate enforcement action against companies who fail to comply with the law.

Avandia Settlement Funding Supports Obesity Prevention Programs

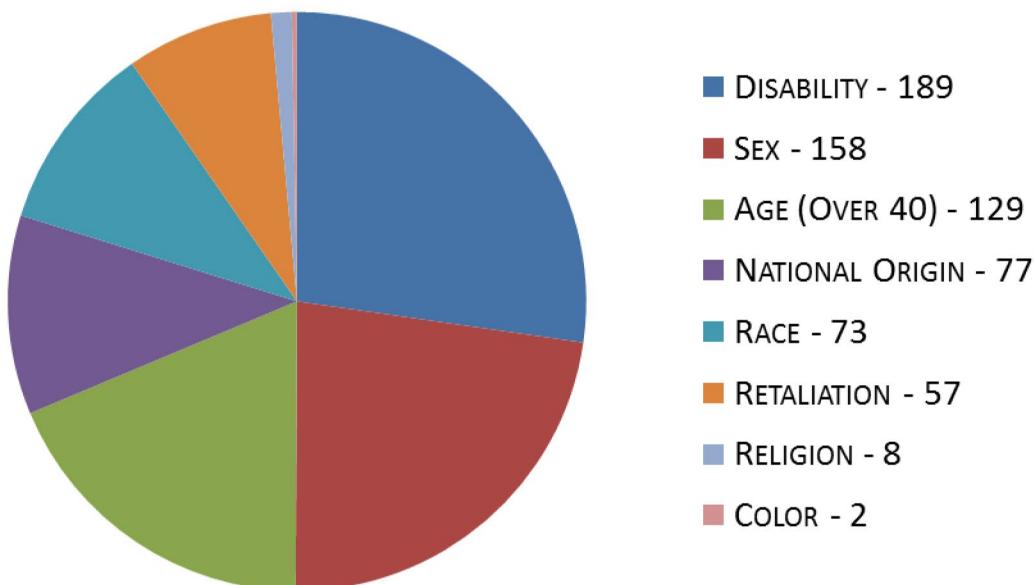
During fiscal year 2016, the Attorney General's Office oversaw implementation of childhood obesity programs by organizations awarded funds from the Avandia consumer protection settlement. After a competitive process, the AGO awarded contracts totaling approximately \$2.4 million to five community agencies to benefit children and youth across the state: the Arizona Alliance of Boys and Girls Clubs, the Arizona Department of Education, the Arizona Department of Health Services, Native American Community Health, and Special Olympics. By the end of the fiscal year, their combined efforts directly impacted 14,636 youth either in a childcare group home, school or after-school setting. Additionally, teaching staff and parents across the state have received healthy lifestyle training, and 60 schools have received sports equipment for physical fitness programming. Funding from the Avandia settlement enabled the Special Olympics to develop and roll-out a curriculum for preschool children, and to provide fitness-focused health education to 1,377 young athletes this year. These programs will continue serving youth across Arizona through the end of the 2017 fiscal year.

Division of Civil Rights Section

The Division of Civil Rights Section (“DCRS”) enforces the Arizona Civil Rights Act (“ACRA”). ACRA prohibits discrimination in employment, housing, public accommodations, and voting. The DCRS investigates, mediates, and litigates complaints alleging violations of ACRA and seeks to reduce discriminatory conduct through education, outreach, conflict resolution services, and mediation training programs. Within the DCRS is the Arizona Civil Rights Advisory Board, which publishes studies that in its judgment will work to eliminate discrimination.

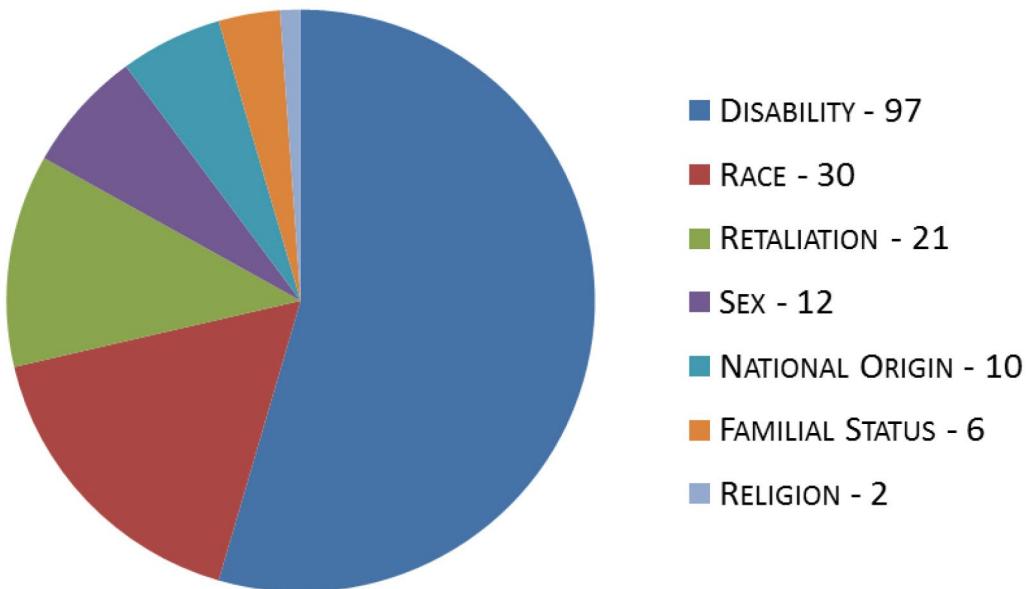
Arizonans can file charges with the DCRS online, by phone, mail, or in person. In FY 2016, the DCRS investigated 1,785 discrimination charges that potentially violated ACRA. DCRS investigated charges alleging the following types of discrimination:

ALLEGATIONS OF DISCRIMINATION IN EMPLOYMENT

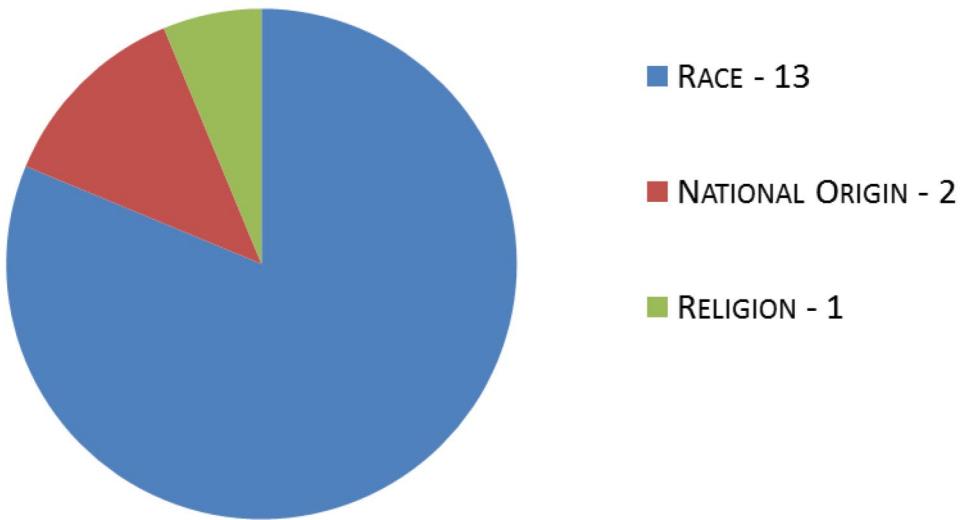


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ALLEGATIONS OF DISCRIMINATION IN HOUSING



ALLEGATIONS OF DISCRIMINATION BY A PUBLIC ACCOMMODATION



Where possible, the DCRS seeks to resolve disputes through various forms of conflict resolution. In FY 2016, the DCRS resolved 115 charges of discrimination either through mediation, conciliation, or litigation settlements. As a result of these efforts, the DCRS obtained a total of \$1,309,996.72 in monetary relief for Charging Parties and for future monitoring and enforcement activities, along with a wide variety of injunctive relief to prevent future civil rights violations.

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Overview of Accomplishments

State v. Sit Well Upholstery - Sexual Discrimination case where a supervisor inappropriately touched a female employee, as well as had inappropriate discussions of sexual nature with other female employees. The comments and conduct were unwelcome and sufficiently severe and pervasive that they altered the terms and conditions of employment for female employees and created a hostile work environment. This case is pending before the Maricopa County Superior Court.

State v. GEO Group - Sexual Discrimination case where a class of individuals alleged a sexually hostile work environment and retaliation against Defendant, the operator of a private prison in Arizona. The scope of the class was at issue on appeal to the Ninth Circuit, who remanded the matter back to the Arizona District Court where the Court ordered a stay pending Defendant's Petition for Certiorari to the US Supreme Court.

State v. Pinnacle Health Facilities XXI, LP - In this employment discrimination case based on retaliation, an employee was fired after reporting to her managers that a co-worker sexually assaulted her during a lunch break. After filing suit, a settlement was reached during mediation for a confidential monetary sum for the charging party. Additionally, the Defendant agreed to amend its policies prohibiting sexual harassment and retaliation and set out a procedure for employees to complain without suffering retaliation, provide training in anti-harassment policy and reporting procedures to all of its employees, provide additional training on maintaining a workplace free of discrimination and conducting investigations into complaints of discrimination to all of its managers, supervisors, and human resources employees, and to display anti-discrimination posters at all of its facilities.

State v. City of Tempe - This case stems from a lawsuit filed by the City of Tempe against the Arizona Attorney General to challenge the Attorney General's jurisdiction to investigate Tempe for housing discrimination under the Arizona Fair Housing Act, based on a fair housing complaint Ron Bircher filed with the Civil Rights Division. After the Attorney General prevailed in the trial court and received an attorney fee award, Tempe appealed. The Arizona Court of Appeals then affirmed the trial court's ruling that the Attorney General has jurisdiction to investigate the City of Tempe for housing discrimination, and the trial court's fee award. The Court of Appeals then issued an order awarding the Attorney General \$19,590 in attorney fees for the appeal. Tempe paid the fee award to the Attorney General, and the Attorney General resumed its fair housing investigation.

In FY 2016, the Arizona Civil Rights Advisory Board began an inquiry into the issue of human trafficking and its impact on civil rights. Specifically, the Board is seeking means to make victims of human trafficking whole where criminal remedies are unavailable due to burden or witness issues. In this regard, the Board hosted a public forum where experts educated the Board and members of the public on the issues. Members of the public asked questions of the panel and made comments to the Board. The Board is discussing and working on proposed legislation.

In addition to its investigation and enforcement activities, the ACRD participated in or sponsored 21 education and outreach events to inform the community about civil rights laws and the ACRD's complaint and resolution process.

Civil Litigation Division

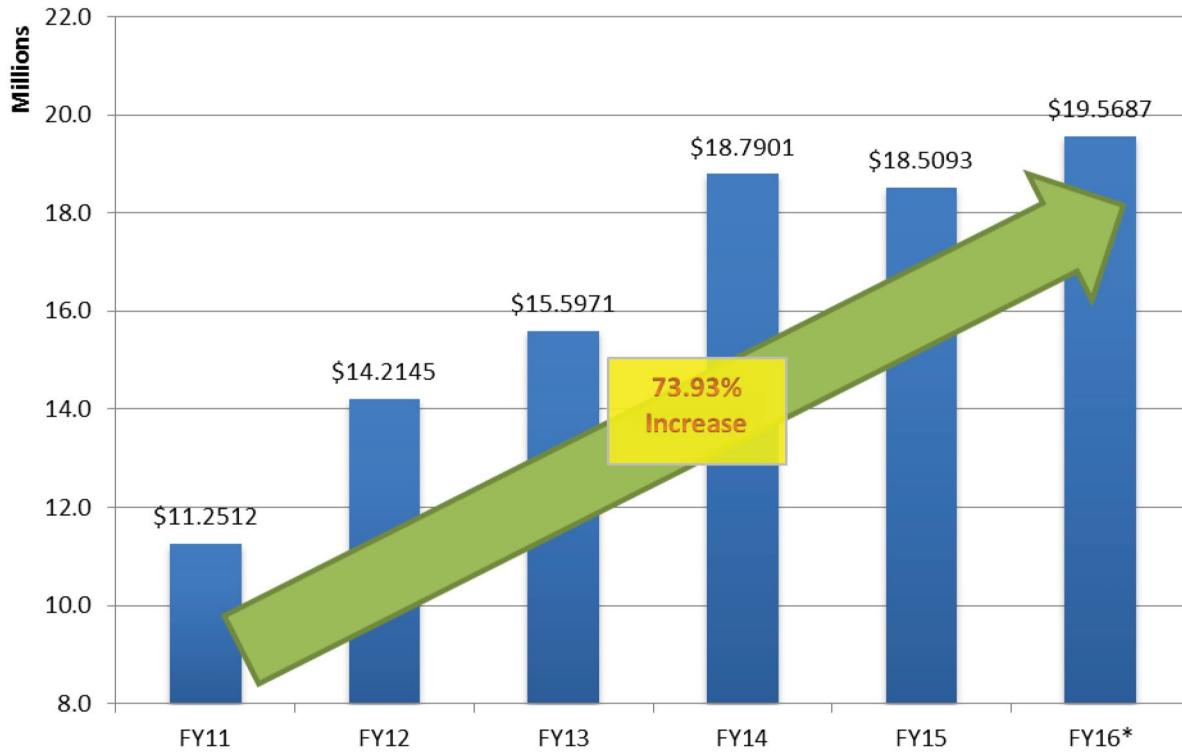
Bankruptcy & Collection Enforcement Section

The Bankruptcy and Collection Enforcement Section (“BCE”) comprised of the Bankruptcy Unit, Collection Enforcement Unit and State Court Unit, is a cross functional team of attorneys, legal staff and debt collection professionals. BCE’s mission is to collect debts owed to the State of Arizona, efficiently, expeditiously and fairly in order to maximize revenue.

BCE represents nearly all state agencies, boards, commissions and departments in bankruptcy, state court litigation and collection matters, and its responsibilities range from routine collection and bankruptcy matters to complex litigation to establish debt.

In FY2016, BCE collected approximately \$19.5 million for the State of Arizona. Improvements in BCE operations have steadily increased revenues as a result of increased debt collection benefiting both the Attorney General’s Office (AGO) and the State of Arizona. Year over year, since 2011, BCE has increased collection revenues by 73.9%.

Collection Enforcement Revolving Fund - Revenue by Fiscal Year



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Some significant collections include:

State Court Unit

State v. Colorado City, City of Hildale, et al - Collection of an award of \$2,198,296 in attorney's fees and costs and \$250,000 in civil penalties against the cities following a judgment in favor of the state for violations of the Arizona Fair Housing Act and religious discrimination. Following significant litigation by the Civil Rights Section, and the court rendering judgment in favor of the state and awarding attorneys' fees and costs, BCE was able to negotiate a settlement of \$2,100,000, or 86% of the total award.

State v. Swift Transportation Co. & Central Refrigerated Service, Inc. - This case came from the Department of Transportation, Risk Management. Shortly after filing suit against the two entities for damage to the Mescal Bridge in the amount of \$1,265,725-which was caused by an accident and subsequent fire involving two semi-tractor trailers owned by the defendants- BCE was able to settle the case for \$750,000.

Bankruptcy Unit

Carl's Jr/MIH – In conjunction with the Chapter 11 bankruptcies filed, BCE collected \$1,036,639 in employee withholding taxes on behalf of the Department of Revenue.

Lehman Brothers Holdings – BCE collected \$1,213,003 on behalf of Arizona State Treasurer and Arizona State Retirement System in the Lehman Brothers Holdings, Inc. bankruptcy.

Environmental Enforcement Section

The Environmental Enforcement Section ("EES") provides advice, enforcement and representation activities related to state and federal environmental and natural resources law. The Section advises, represents and litigates on behalf of the Arizona Department of Environmental Quality ("ADEQ") in State and Federal environmental matters and enforces the environmental statutes.

Overview of Accomplishments

- Collected over \$1.3 million in civil penalties from facilities for violating Arizona's pollution control laws.
- Obtained a judgment after trial to recover \$700,000 in state costs associated with the clean-up of a site with soil and ground water contamination.
- Initiated the review of new EPA rules for federal overreach and minimal environmental benefit.

State v. Apache Nitrogen Products, Inc. - EES obtained court approval of a settlement with Apache Nitrogen Products for violating its air quality control permit. Apache Nitrogen manufactures ammonium nitrate products for mining, agricultural, and industrial purposes, and exceeded air pollutant emission limits and monitoring requirements contained in its permit. Under the agreement, Apache Nitrogen paid a \$500,000 civil penalty.

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State v. Yavapai Block Company, Inc. - EES obtained court approval of a settlement with Yavapai Block Company that required the company to pay a \$30,140 civil penalty for air quality violations. Yavapai Block failed to obtain an air quality control permit to operate two concrete batch plants that were used in manufacturing concrete blocks, pavers, and precast concrete structures. Yavapai resolved the violations by obtaining a permit and paying the civil penalty.

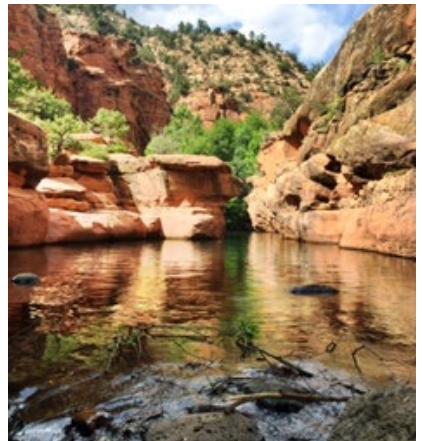
State v. A.V.R., Inc. - EES obtained court approval of a settlement with A.V.R. for violations of air quality control requirements for asbestos. A.V.R. violated asbestos control requirements during renovation work at a hotel in Flagstaff. Under the settlement, A.V.R. paid \$20,000 civil penalty and provided free health screenings to any guest that may have been exposed to asbestos during the reconstruction.

State v. William W. Arnett - EES obtained a \$1.33 million judgment after trial against William W. Arnett for violations of the state's underground storage tank laws. Arnett discovered gasoline leaking from underground storage tanks at his business, Yellow Cab Company of Tucson, but failed to remove the tank and remediate soil and ground water contamination for at least five years. After the ADEQ cleaned up the contamination, the state filed a lawsuit to recover its costs. The litigation was completed in 2015, and the court awarded the state \$534,440 in clean-up costs, \$595,642 in civil penalties, and \$204,007 in attorneys' fees.

State v. Aftermath Solutions, Inc. - EES obtained court approval of a settlement with Aftermath Solutions for Aftermath's failure to register as a biohazardous medical waste transporter and its improper handling of medical waste and waste from tattoo businesses. Under the settlement, Aftermath agreed to pay a \$5,000 civil penalty and agreed to register as a biohazardous medical waste transporter in Arizona. Aftermath also agreed to train 5,000 first responders in Arizona on the OSHA requirements and procedures for handling blood-borne pathogens.

State v. Virgin River Domestic Wastewater Improvement District - EES, on behalf of ADEQ, filed a lawsuit against Virgin River Domestic Wastewater Improvement District for illegally discharging raw sewage into the Beaver Dam Wash from its wastewater treatment plant. Virgin River failed to comply with ADEQ's compliance order after ADEQ determined that the plant required maintenance and repair. After EES filed the lawsuit, Virgin River agreed to a settlement that was approved by the court. Under the settlement, Virgin River must repair and improve the plant according to a schedule of compliance. Along with operation and maintenance requirements, Virgin River must comply with the discharge restrictions under the state's aquifer protection and surface water permit programs.

Save the Scenic Santa Ritas v. Cabrera, Director of ADEQ (Rosemont Copper Mine) - In this case before the court of appeals, EES successfully argued for the reversal of a superior court decision finding that ADEQ arbitrarily and unlawfully issued an air quality control permit for a proposed copper mine in the Santa Rita Mountains in Pima County. After ADEQ issued the permit, a coalition of opponents challenged the decision and sought review by an administrative law judge. After a lengthy evidentiary hearing that included expert testimony on air dispersion models and pollutant emissions data, the administrative law judge upheld ADEQ's decision. On review, however, the superior court reversed it. After briefing and oral argument, the court of appeals reversed the superior court and affirmed ADEQ's technical review and permit decision.



Civil Litigation Division

State v. Superior Industries, Inc. - EES obtained court approval of a settlement with Superior Industries for the illegal construction and operation of a paint booth facility at its Prescott Valley plant. The facility emitted air contaminants and required a permit under the state's air quality control permit program. The air quality violations continued for six years before Superior Industries met its compliance requirements. Under the settlement, Superior Industries paid a \$122,000 civil penalty.

State v. DPE Materials, LLC - EES obtained court approval of a settlement with DPE Materials for violations of its air quality control permit at an asphalt plant in Yuma. DPE operated new pollution sources including crushing and screening equipment that was not authorized by its permit. Under the settlement, DPE agreed to pay a \$30,000 civil penalty.

In the Matter of Beaver Valley Water Company - EES successfully defended the ADEQ's compliance order against Beaver Valley Water Company, a public water provider, for violating the state's safe drinking water requirements. The order identified and required compliance for treatment, filter, and storage violations. After Beaver Valley administratively appealed the order, EES proved the violations in an evidentiary hearing, and an administrative law judge upheld ADEQ's compliance order requiring Beaver Valley to correct the violations.

In re Asarco, LLC - EES has represented and provided ongoing advice to ADEQ on the remediation of hazardous waste contamination on Asarco mining sites in Arizona and the transfer and future uses of those sites. In 2010, a bankruptcy court transferred the Asarco sites and assets into a trust established for the administration and remediation of the properties including the Salero, Sacaton, and Trench Camp mining sites. The remediation costs were projected at \$25 million. At Salero, EES assisted ADEQ with the continuing remediation of contamination caused by acid rock drainage and discharges from an adit. At Sacaton, EES assisted with the continuing remediation of contamination from on-site tailings and acid drainage in the mine pit. At Trench Camp, EES assisted with the remediation of contamination from tailings, acid rock drainage, and an adit, and EES assisted with the sale of the Trench Camp property to a company interested in its remediation and future use.

Water Quality Assurance Revolving Fund ("WQARF") Representation and Litigation - EES represents ADEQ in its continuing administration and enforcement of the Water Quality Assurance Revolving Fund (Arizona's Superfund program). WQARF establishes a registry of sites where groundwater and soil contamination have occurred, and complex investigation and remediation procedures are followed for clean-up. Because the remediation of these sites often takes years and involves numerous responsible parties, EES provides on-going legal advice to ADEQ; negotiates and litigates for access to properties to perform necessary remedial work; negotiates settlements with responsible parties; assists in the creation of internal processes for legal and technical tasks; assists with the investigation and allocation of liability for responsible parties; and negotiates prospective purchaser agreements.

Child and Family Protection Division



Director John Johnson

MISSION:

To provide the Arizona Department of Economic Security (ADES) and the Department of Child Safety (DCS) with high quality representation and timely legal advice that promotes the safety, well-being and highest degree of self-sufficiency of children, vulnerable adults and families.

Division Summary

The Child and Family Protection Division (CFPD) provides comprehensive legal representation to ADES and DCS with more than 396 employees in locations statewide. CFPD is divided into three parts: Protective Services Section (PSS); Child Support Services Section (CSS); and Civil and Criminal Litigation and Advice Section (CLA). The Division also has an Appellate Practice Group that represents ADES and DCS in the Arizona Court of Appeals, Arizona Supreme Court, and the Federal District Courts. The Appellate Practice Group typically prevails in an overwhelming majority of all resolved appeals.

Protective Services Section

The Protective Services Section of the Attorney General's Office provides comprehensive legal representation to the Department of Child Safety (DCS). The PSS shares the Department's goal of protecting abused and neglected children, providing services to preserve families, and achieving timely permanency for Arizona's children in foster care. The PSS has 270 full time equivalent positions; 148 attorneys and 122 support staff. The attorneys and staff in the PSS provide legal representation to the DCS throughout Arizona's 15 counties with ten offices located in Flagstaff, Gila/Pinal, Kingman, Mesa, Phoenix I, Phoenix II, Prescott, Sierra Vista, Tucson, and Yuma.

Trial Practice

The PSS attorneys engage in a high-volume, fast-paced, litigation-focused practice in the Juvenile Division of the Arizona Superior Court. Trial attorneys in the PSS handle thousands of legal actions each year, generally referred to as "dependency cases." These court processes involve dependency, guardianship, severance, and adoption proceedings. These proceedings serve to protect abused and neglected children in both in-home and out-of-home placements. The children are legally in the custody of the DCS, and progress towards permanency is monitored by the courts. Protective and remedial social services are provided to the family to remedy the circumstances that brought the children into care in order to achieve successful reunification. If attempts to reunite families prove unsuccessful in a judicial or legislatively determined period of time, PSS attorneys represent the DCS in actions to achieve the permanent placement of children through guardianship, severance of parental rights, and adoption proceedings.

Child and Family Protection Division

Policy & Training: PSS lawyers advise DCS on a wide spectrum of legal issues arising from federal, state and agency statutes, rules, regulations, policies, procedures and court decisions. The PSS Litigation Support Unit trains all incoming PSS Assistant Attorneys General. The Litigation Support attorneys mentor new PSS attorneys, second chair trials, litigate high-profile cases and assist with straight to severance cases. In addition, Litigation Support attorneys provide substantive and ongoing training to the PSS attorneys, DCS caseworkers and supervisors, members of the judiciary, and various child welfare system stakeholders throughout Arizona.

PSS Appeals

For PSS, the Child and Family Protection Division's Appellate Practice Group regularly appears before the Arizona Court of Appeals and Supreme Court to defend and/or challenge trial court decisions and to file and respond to appeals and special actions. In FY2016, the Appellate Practice Group filed 190 briefs on behalf of PSS and prevailed in 95% of the PSS appeals resolved. Additionally, the Group handled 511 substantive motions or issues for the PSS trial units and reviewed an additional 46 motions written by PSS attorneys. The Court of Appeals issued seven published opinions in FY2016 in cases that were briefed by the Appellate Practice Group on behalf of DCS, and the Arizona Supreme Court issued one published opinion in FY2016 in a case that was briefed by the Group on behalf of DCS. Four of those Opinions were affirmed in DCS's favor. In addition to its regular appellate work, the Appellate Practice Group assisted PSS by:

- Successfully obtaining a dismissal of a temporary restraining order against DCS in federal court.
- Assisting with two class-action lawsuits against DCS filed in federal court.
- Conducting training of new-hire attorneys and refresher training for all PSS attorneys at attorney meetings, brown bags, and the PSS CLE Days.
- Developing and revising forms for statewide use for all PSS attorneys through the Best Practices Committee.
- Meeting regularly with the client to discuss policy and appellate issues.
- Researching and providing subject-specific resource materials.
- Serving on various committees, both within the AG's Office and without (through the State Bar, the Arizona Commission of Indian Affairs, the National Association of Counsel for Children, and various court committees and initiatives).
- Providing case-specific advice to attorneys and the client on various issues including the ICPC, ICWA, UCCJEA, and other state and federal law.
- Providing training to new non-AG dependency attorneys and new judges through the Court Improvement Program.

Over the past five fiscal years (FY2012 – FY2016), the number of notices of appeal filed in PSS cases nearly doubled (from 380 to 664). The Appellate Practice Group has managed to address this huge increase without additional attorneys or staff.

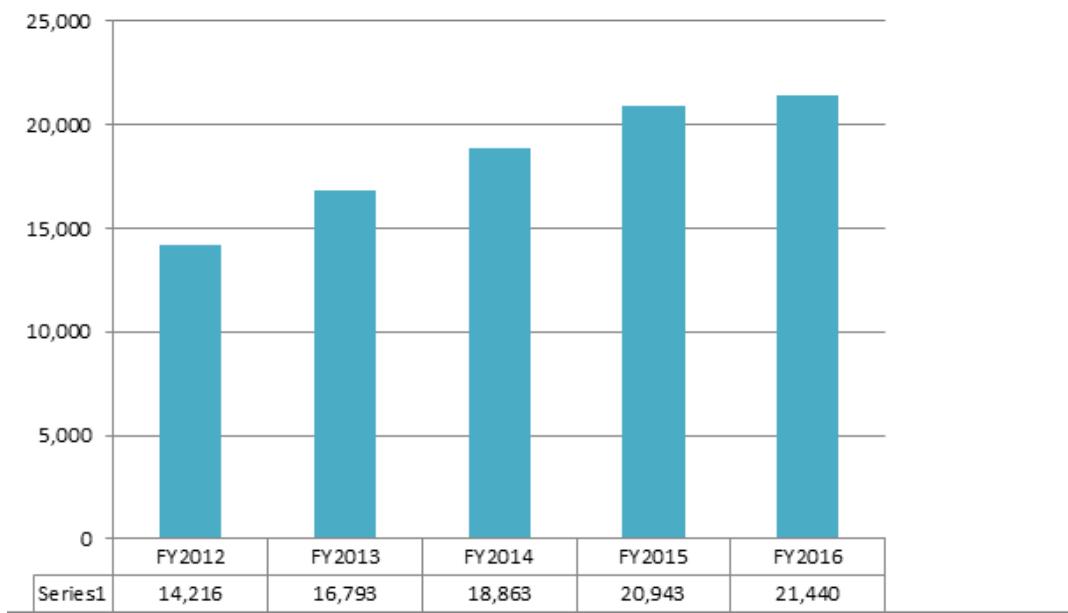
Overview of Accomplishments

- Attorneys prepared for and/or attended 88,424 court appearances
- Attorneys prepared for and represented the DCS in trial a total of 7,822 days in FY2016.
- The PSS Litigation Support Unit trained 35 new attorneys during FY2016. In addition to training new attorneys, the PSS Litigation Support Unit also trained an average of 25 to 30 new case managers every month both in Phoenix and Tucson.

Child and Family Protection Division

- Protected more than 21,440 children from abuse and neglect.
- Filed 6,003 new dependency petitions.
- Filed 2,467 severance motions and petitions.¹
- Filed 271 guardianship motions.
- Filed 328 adoption petitions.
- Reunited 3,131 children with their parents.
- Placed 532 children with permanent guardians.
- Assisted in the adoption of 2,935 children by relatives or foster parents.
- Significantly improved efficiency for filing dependency petitions within 72 hours.
- Updated their already extensive training program to increase efficiency and flexibility and reduce costs for training new attorneys outside of Maricopa County.
- Established a system to provide a “mentor” for all of the attorneys to provide better guidance and oversight in ensuring child safety.
- Established a system to identify, track, and provide additional oversight for some of the more serious complex cases in PSS, in an effort to better protect these especially vulnerable children.
- Modified and updated the process of ensuring compliance with the Adoption and Safe Families Act (ASFA), which is a significant source of funding for DCS.¹

**COMPARISON OF CHILDREN IN DCS LEGAL CUSTODY
FISCAL YEARS 2012 THROUGH 2016**

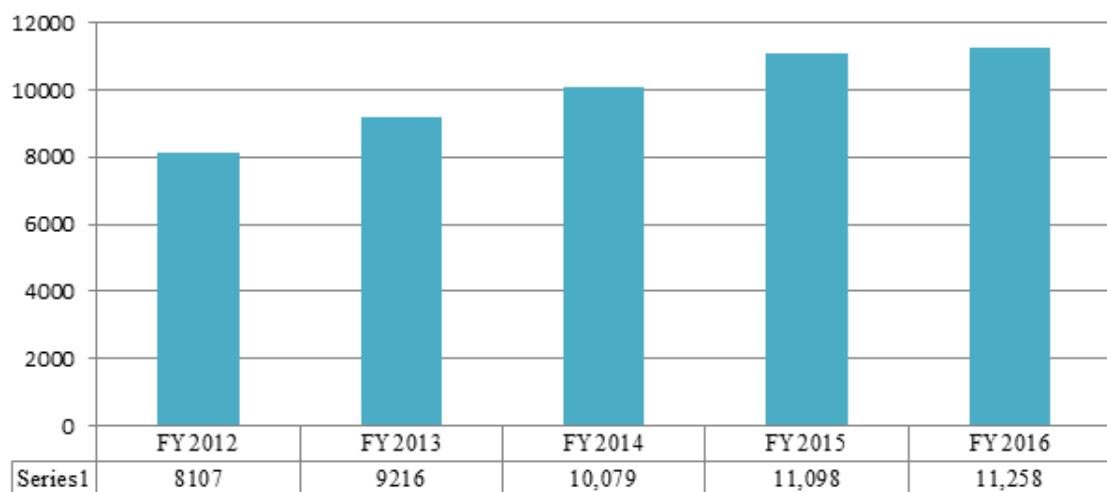


¹ Establishing permanency is the goal for all children in DCS's custody. If reunification with a parent cannot be achieved, DCS will proceed with severance of parental rights to free the child for adoption. The PSS has continued its efforts with the Case Permanency Staffings to ensure timely review of cases for permanency and to identify grounds for, and barriers to, severance as early as possible. In addition, the straight to severance procedures implemented for cases in which reunification is determined not to be in the child's best interests (i.e. severe abuse cases, surviving siblings in child death cases, and new babies to parents whose rights were recently severed) have freed children for adoption at a much earlier stage in the proceedings.

Child and Family Protection Division

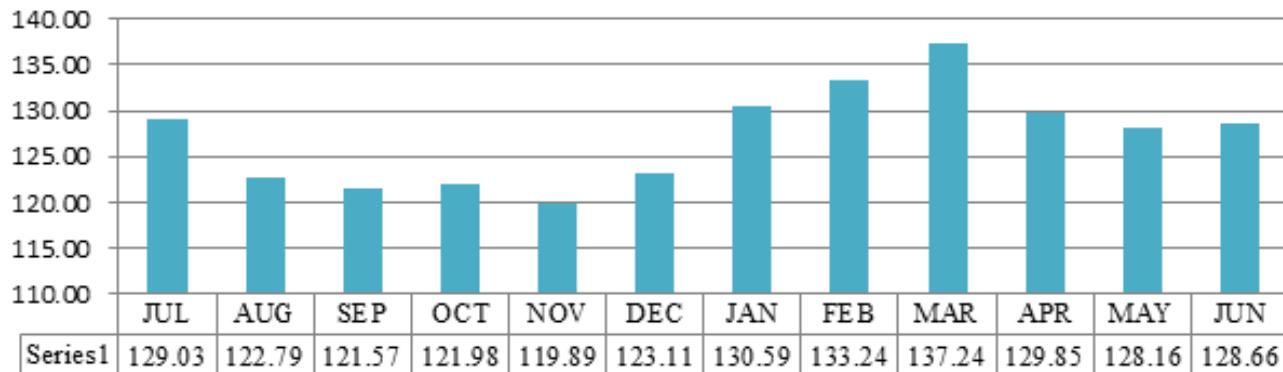
DCS has seen an increase in the number of children in care from the end of FY2012 to the end of FY2016. For the purposes of this report “children in care” is not equivalent to children in out-of-home placement, but represents the number of children placed in the legal custody of DCS by the Superior Court. A child in the legal custody of DCS includes children placed out of home on a dependency petition and children that remain in the home either on an in-home dependency petition or an in-home intervention petition

GROWING CASE NUMBERS FISCAL YEARS 2012 THROUGH 2016



Similarly, the PSS has seen an increase in the number of open cases from the end of FY2012 to the end of FY2016. An “open case” is one where a dependency or in-home intervention petition has been filed with the Superior Court.

PSS ATTORNEY CASE LOADS BY MONTH DURING FISCAL YEAR 2016



Child and Family Protection Division

The American Bar Association has recommended that the dependency caseload for an agency attorney should be no more than 60 cases.² As noted in the chart, the PSS attorney caseloads in FY2016 were significantly higher than this standard.³

Child Support Services Section

The Child Support Services Section (CSS) of the Attorney General's Office seeks to ensure that children receive financial support from both parents. The Section provides legal advice and representation to ADES' Division of Child Support Services (DCSS). CSS handles a high-volume litigation caseload to establish paternity and to establish, modify and enforce child support orders. CSS attorneys and staff are co-located with our client, DCSS, in 11 offices statewide in the following counties: Cochise, Coconino, Maricopa, Mohave, Pima, Pinal, Yavapai, and Yuma. CSS also handles the litigation and covers court hearings in the following 5 counties: Apache, Graham, Greenlee, La Paz, and Santa Cruz.

Trial Practice

CSS attorneys engage in fast-paced litigation in the Family Court Division of Arizona's Superior Courts. Because approximately 45% of Arizona's children are born to unwed parents, establishing paternity is often the first step in the child support process. During FY2016, the number of paternity orders entered by the court decreased 27% due to an increase in paternity established administratively through the hospital paternity program. The number of establishment orders entered by the court decreased by 7% partially due to a 3% reduction in the DCSS caseload and the fact that 88% of the cases already have child support orders. The nature of the DCSS caseload is changing and an increasing number of new cases already have a child support order established in a non IV-D case. Parents are seeking DCSS services to assist with enforcement and collection of their child support. Modifications continue to constitute approximately one-third of the litigation caseload which contributed to a 2% increase in the current collections performance measure ratio. To increase the overall collections for both current support and payments on arrears, 2,681 new enforcement actions were filed. The CSS trial attorneys appeared in 24,592 court appearances, a 5% decrease from FY2015. Overall, the DCSS caseload decreased from 180,000 cases to 174,637 open child support cases which consequently reduced the CSS litigation caseload from 7,304 cases at the close of FY2015 to 7,082 cases at the close of FY2016. The CSS attorneys provided legal advice on 4,188 cases and reviewed an additional 18,773 cases for litigation which accounted for an 18% and a 6% increase respectively from FY2015. The CSS Bankruptcy Team currently handles over 683 Chapter 7 and Chapter 13 cases.

² The American Bar Association reflects a standard for a dependency attorney handling a trial caseload, preparing and managing their own appellate work and advising the client on policy matters. The PSS is structured somewhat differently and thus the per attorney standard is higher.

³ The PSS has determined an appropriate caseload for trial attorneys to be approximately 85 cases per attorney. This takes into account that the Section has an Appellate Practice Group preparing and managing all appellate work, and a Policy Team, principally responsible for providing policy advice to DCS.

Child and Family Protection Division

Policy and Training

CSS attorneys advise DCSS on various legal issues arising from federal and state statutes, regulations, policies, and court decisions. The CSS Training Team updated training manuals for attorneys, support staff and supervisors in an ongoing effort to standardize practices across the state. In addition to overseeing the core training for all incoming staff, the CSS Training Team coordinated and presented two, full day training programs for the attorneys and paralegals statewide, including the County Partners.

CSS Appellate Matters

In FY2015/16, the CFPD Appellate Practice Group represented DCSS in a number of new and active appeals. One appellate attorney is dedicated to child support appeals, supported by others when necessary. Attorneys handling CSS appeals staff each case with an experienced reviewer from the Solicitor General's Office, and many of the matters are resolved through substantive motions. The Appellate Practice Group filed 4 appellate briefs in CSS matters and argued two special actions before the court of appeals. In addition, Appellate Practice Group attorneys handled 19 substantive matters for CSS trial attorneys.

In FY2016, CSS helped Arizona children receive the support to which they were entitled by:

- Judicial establishment of paternity for 1,049 children⁴
- Establishing new child support orders for 3,795 families
- Obtaining child support judgments of over \$40 million
- Resolving 4,676 actions for modification of support
- Representing DCSS in 24,592 court appearances
- Assisting DCSS to collect over \$347 million in support
- Increasing the collections for current support from .55:1 to .57:1 for every child support dollar owed
- In bankruptcy cases, collecting \$480,115 in support
- In non-Family Court litigation, collecting \$1,034,474 in support;⁵ a 17.8% decrease from FY2015

Overview of Accomplishments

The goals of the Child Support Services Section during the past fiscal year included increasing collections. We also partnered with the Maricopa County Superior Court in an event which offered obligors with outstanding child support arrest warrants an opportunity to have their warrant quashed by paying one month's obligation. The CSS attorneys reviewed outstanding arrest warrants in approximately 1,600 IV-D cases and attended two full day Child Support Arrest Warrant Workshops held in conjunction with the court.

⁴ The Arizona IV-D Child Support Program is number two in the nation with respect to its efforts in establishment of paternity.

⁵ Non-Family Court litigation consists of liens, foreclosures and settlements.

Child and Family Protection Division

Civil and Criminal Litigation and Advice

The Civil and Criminal Litigation and Advice Section (CLA) of the Attorney General's Office provides legal advice and representation to all DES programs except Child Support Services and advises and represents DCS in all matters other than cases handled by PSS. CLA advises and represents DES and DCS in matters regarding business operations, including the review of service provider contracts, intergovernmental agreements, department policies, proposed legislation, personnel matters (including the hiring and discipline of employees), facilities management, and the collection of debts owed to the agencies by consumers for the overpayment or fraudulent collection of public benefits. CLA advises and represents the following DES and DCS programs: Adoption and Guardianship Subsidies, Adult Protective Services, Procurement, Unemployment Insurance Benefits, Vocational Rehabilitation, Child Care Administration, Benefits and Medical Eligibility, SNAP, Cash Assistance, Foster Care Licensing, Developmental Disabilities, and the medical and dental program for dependent children, among others.

The CLA Criminal Team prosecutes individuals and contractors who defraud the State through DES programs, parents who willfully fail to provide support for their children, and incarcerated individuals who escape from the child support work furlough program.

CLA Appellate Matters

For CLA, the CFPD Appellate Practice Group primarily handles appeals from final agency decisions in unemployment-insurance tax and benefits cases and from superior court decisions in PSRT (Central Registry) cases. One attorney is dedicated to handling CLA appellate issues, with additional support from the Appellate Practice Group, as needed. In FY2015/16, the Appellate Practice Group filed 1 appeal and 2 answering briefs. In addition, the Group argued two cases at oral argument in the court of appeals, resulting in one memorandum decision and one opinion. The Group also handled 19 substantive matters for CLA trial attorneys.

In FY2016, the CLA Civil Practice Team:

- Opened, litigated and/or reviewed 898 administrative litigation and civil cases.
- Opened and reviewed 159 contracts, leases, Intergovernmental Agreements and/or amendments. There is a decrease from FY2015 by 26.
- Obtained 827 civil judgments in civil collections cases totaling \$2,868,355.36, an increase of \$1,643,110.85 from FY2015.
- Secured an additional \$66,998.49 in civil judgment collections without the need for reducing multiple matters to a judgment. This amount increased by \$22,015.76.
- Collected \$446,291.72 through wage and bank garnishments. Collections through wage garnishments increased by \$68,306.58.
- Filed 695 civil collections cases. Cases filed in FY2016 decreased by 231.
- Opened 174 matter files for tracking significant legal advice provided to ADES. The matter files increased by 124 in FY2016.
- Responded to 1,198 subpoena and requests for public records. During FY2016, the subpoena requests decreased by 416.

Child and Family Protection Division

Administrative, Civil and Appellate Litigation Resolved (Cases Closed)

Program	Cases Closed
Adoption Subsidy	2
Adult Protective Services Review Team	120
Childcare Administration	1
Comprehensive Medical And Dental Program	14
Contracts/Leases/IGA	76
Division of Develop Disab: Grievances	41
Division of Develop Disab: Long Term Care	20
Division of Developmental Disabilities	24
Equal Employ Opportunity Comm (Matters)	7
Food Stamp Administration	1
Foster Care Licensing	13
Licensing/Agency	3
Personnel Div Of Business and Finance	1
Personnel Div Of Devel Disabilities	9
Personnel Div Of Employ Of Rehab Svcs	4
Personnel Office of Inspector General	2
Protective Services Review Team	153
Unemployment Insurance Benefits	46
Unemployment Insurance Contributions	6
Vocational Rehab & Blind Services	18
Grand Total	561

Child and Family Protection Division

FY2016 - CLA Civil Collections Unit:

Civil Collections by Program

Program	Filed	Judgments Entered	Total Judgments
Combination Cases	11	7	\$35,177.87
Employment Overpayment	0	1	\$25,918.00
Food Stamp	8	5	\$7,369.96
Unemployment Insurance Benefits	676	814	\$2,799,889.53
Grand Total	695	827	\$2,868,355.36

Civil Collections by Program

Program	Collections Received Judgment Not Filed	Collections Without Reducing Matter to Judgment
Food Stamp	31	\$66,998.49
Grand Total	31	\$66,998.49

Garnishment Collection Summary

1st Quarter 2016	\$103,224.50
2nd Quarter 2016	\$113,990.79
3rd Quarter 2016	\$114,802.21
4th Quarter 2016	\$114,274.22
Grand Total	\$446,291.72

In FY2016, the CLA Criminal Practice Team:

- Filed 264 criminal cases
- Obtained 161 criminal sentences
- Obtained restitution orders totaling \$858,737.50
- Collected \$773,352.26 in restitution prior to sentencing
- Obtained orders in fines totaling \$12,800.00
- Obtained orders for 7,189 hours of community service

Child and Family Protection Division

Criminal Cases

Program	Cases Filed	Cases Sentenced	Restitution Ordered	Restitution Paid Prior to Sentencing	Fines Collected	Community Service Hours
Combination Case	0	2	\$13,863.00	\$650.00	\$0	80
Employee Food Stamp	1	0	\$0	\$0	\$0	0
Food Stamp	10	2	\$5,984.00	\$8,602.00	\$200.00	40
Unemployment Insurance Benefits	253	157	\$838,890.50	\$764,100.26	\$12,600.00	7,069
Grand Total	264	161	\$858,737.50	\$773,352.26	\$12,800.00	7,189

Criminal Division



Director Paul Ahler

MISSION:

To protect the citizens of Arizona by investigating and prosecuting criminal cases within the State of Arizona. To promote and facilitate safety, justice, healing and restitution for Arizona's crime victims. To investigate and prosecute Medicaid fraud; fraud in the Medicaid program; abuse, neglect and exploitation committed in Medicaid facilities or by Medicaid providers. To provide investigative support to the Attorney General's Office and to law enforcement agencies throughout the State.

Division Summary

The Criminal Division is divided into eight Sections: Alliance Section/TRAC (ALL); Border Crimes Enforcement Section (BCS), Drug & Racketeering Enforcement Section (DRG); Financial Remedies Section (FRS); Fraud & Special Prosecution's Section (FSP); Health Care Fraud & Abuse Section (HCF); Office of Victim Services (OVS); and Special Investigations Section (SIS).

Alliance Section

The Alliance Section was created as a result of a settlement agreement that the Arizona Attorney General reached with Western Union Financial Services, Inc. in 2010. The Alliance Section provides support to the Southwest Border Anti-Money Laundering Alliance (Alliance), the Transaction Record Analysis Center (TRAC), and the Arizona Forfeiture Association (AFA). Funds were available for distribution according to the \$96 million dollar settlement agreement between the AGO and Western Union to law enforcement agencies along the southwest Mexican border area, including Mexico. The Alliance provides law enforcement with resources, expertise, meaningful data analysis, training, and organizational collaboration to impact the profit-motivated component of narcotics, weapons, and human traffickers or smugglers.

Overview of Accomplishments

The Alliance Executive Board completed its mission of awarding all grant funds. The Alliance, through the Authorized Representative State, Arizona will continue to fund its money laundering initiatives in the four Border States until their grant funds are expended or until 2019, whichever comes first. These Alliance grant initiatives involve state, federal, and local officers working in multi-disciplinary teams to create a chain of inter-related task forces concentrating on money laundering enforcement at the highest levels. These initiatives were in addition to the Alliance funded bulk cash interdiction operations that intercepted drug money on the highways in Nogales, Kingman, and Florence, Arizona, and in Silver City, New Mexico.

The Alliance continued its Law Enforcement Unity Program in 2015 providing training and support to unify all Alliance law enforcement initiatives along the Southwest border. In addition, the Alliance unites law enforcement focusing on money laundering efforts through training and annual conferences held throughout the Southwest and in Mexico.

Presentations

In February 2016, the Alliance joined the Conference of Western Attorneys General (CWAG) Alliance Partnership to host the “International Border Conference” in Arizona. Attorney General Mark Brnovich welcomed the US Border State Attorneys General, state Attorneys General from Mexico and representatives from the Office of the Attorney General of the Republic of the United Mexican States (PGR), Comision Nacional Bancaria y De Valores (CNBV), TRAC and other law enforcement partners, prosecution and money transmitters. This conference facilitated the collaboration of the group and the ongoing concerns of escalating threats of radical terrorism, human trafficking and transnational organized crime.

The Alliance was instrumental in drafting a Letter of Intent between the AGO and PGR. AG Brnovich and Mexico’s Deputy Attorney General for Legal and International Affairs, Salvador Sandoval Silva, signed the Agreement in Mexico City on May 16, 2016. Under the Agreement, the parties will exchange information, knowledge and best practices in the area of criminal investigations and provide training for investigating and prosecuting the trafficking of drugs, firearms, human smuggling, money laundering and internet crimes against children. Collaboration with our southern neighbors is critical for the investigation and prosecution of drug, human and sex trafficking. This agreement is another important step in building a strong relationship with our Mexican law enforcement partners to promote the Rule of Law on both sides of the border.



In June 2016, the Alliance hosted the “Cameron ‘Kip’ Holmes 25th Annual Southwest Border Money Laundering Conference,” which is the oldest money laundering conference in the nation. This conference was renamed in 2013 to honor Alliance Director and AGO Senior Litigation Counsel Kip who worked tirelessly to combat money

laundering for many decades. Over 180 conference attendees from all levels of government, including regulators and industry were in attendance. The conference featured an intelligence overview with case studies from the TRAC, Bernard Madoff investment fraud scheme, Los Zetas investigation and prosecution, terrorist financing and investigating the dark web and virtual currencies.



Opening remarks by Attorney General Brnovich

Criminal Division

TRAC

The distribution of money transmitter transaction data to law enforcement continues to be administered by the Transaction Record Analysis Center (TRAC). TRAC was created by an amendment to the settlement agreement with Western Union in January 2014. The amendment provides TRAC with Western Union's full transaction data within the southwest border data area for transactions involving amounts of \$500 or more. The Southwest border area includes all of Arizona, California, New Mexico, Texas and the country of Mexico. Western Union and the AGO agreed that expansion of the territorial scope of the data production under the amendment will result in better analysis of potential money laundering transactions associated with organized criminal activity. TRAC provides access to this data through a secure internet connection pursuant to a Memorandum of Understanding among the participating agencies. TRAC provides a forum for Western Union analysts and law enforcement analysts to study data so that together they can combat money laundering activities throughout the Southwest border region. The AGO and Western Union continue to cooperate in fighting international money laundering.

TRAC continues to focus on analysis of human trafficking related money transfer payments in order to more rapidly interdict domestic senders of human trafficking related money transfers and further identify international payees. Financial analysis of payments made by consumers of human trafficking, including international sex trafficking of women and children, in conjunction with traditional law enforcement techniques and closer collaboration with money services business industry professionals continue to result in enhanced interdiction techniques.

In addition, the TRAC continues to enhance and better coordinate investigations and prosecutions of money laundering in the Southwest Border area (the area within 200 miles of the United States/Mexico border on either side of the border and including all of Arizona); improving coordination of States AML efforts and fund related training and information sharing.

TRAC also provides access to data through a secure internet connection pursuant to a Memorandum of Understanding (MOU) among the participating law enforcement agencies. The AGO and Western Union expect that this unprecedented MOU will form the basis of a new era of cooperation in fighting international money laundering. TRAC remains focused on anti-money laundering trends, typologies and threats detected in the money transfer transaction data.

TRAC has produced numerous TRAC Alerts and Investigative Leads to the Western Union Corporate Compliance, Financial Intelligence Unit (FIU) and designated law enforcement liaison personnel on current collaborative efforts. TRAC analysts and investigators continue to provide support to complex national and international money laundering and narcotics investigations and also proactively identify drug and money laundering corridors through TRAC data analysis. In FY16, TRAC has trained over 400 law enforcement partners on the use and benefits of the TRAC data system.



AG Brnovich and Deputy AG for Legal and International Affairs of the Mexico AGO, José Alberto Rodríguez Calderon discussing strategies related to Border Crimes impacting Arizona and Mexico through Anti-Money Laundering methods that could reduce border crimes including arms trafficking, human trafficking, and border violence.

Border Crimes Enforcement Section

BCS works with local, state and federal law enforcement partners to disrupt and dismantle criminal organizations in Southern Arizona. The section specializes in fighting drug trafficking and money laundering through court-authorized electronic interception and phone exploitation focused against the Mexican cartels and United States-based transportation cells involved in the smuggling of drugs, weapons, and bulk currency across Arizona's southern border. BCS also specializes in complex economic fraud, business embezzlement, public corruption and gang prosecutions, and further dedicates an attorney to fight elder financial exploitation. The section also focuses on Internet Crimes Against Children (ICAC) by prosecuting possession and transmission of child pornography. In FY16, BCS attorneys tried five cases, obtaining guilty verdicts in all five prosecutions.

The Section also supervises four law students in a year-long 38(d) clinical prosecution program in partnership with the University of Arizona James E. Rogers College of Law and conducts regular legal trainings with its law enforcement partners. Since 2006, BCS has provided an unprecedented opportunity for law students interested in becoming prosecutors to gain a thorough understanding of the fundamentals of ethical criminal prosecution, knowledge of real-life court procedure, along with nuanced practice tips from experienced prosecutors. Past students have presented preliminary hearings, argued motions and sentencing and even co-chaired felony trials to include presenting opening statements and closing arguments. Law students also attend a weekly academic class, with topic instruction shared among all BCS attorneys and they also attend field trips related to important law enforcement functions, including the visits to the jail, a State prison, the morgue, the City and State crime labs and the local DEA and ATF offices. All students are 2Ls at the James E. Rogers School of Law at the U of A and are eligible to appear in court under Rule 38(d) with the supervision BCS attorneys.

Overview of Accomplishments

For FY16, BCS attorneys initiated cases on 248 new defendants and were in active litigation on 707 defendants. Total drug seizures included 204 pounds of methamphetamine, 15 pounds of heroin, 75 pounds of cocaine and 2,273 pounds of marijuana. During this time period, BCS also assisted 429 crime victims and obtained approximately \$1,457,239.34 in court-ordered restitution for Arizona victims of economic crime. BCS also obtained approximately \$1,038,485.20 in court-ordered fines.

Major Cases

State v. Carlos & Brigitte Nogales, et al. - The 18 indicted defendants conducted a drug trafficking and money laundering organization that spanned over five years and involved more than \$2,800,000 in drug proceeds. SIS Special Agents determined that members of the Nogales group were shipping marijuana to Eastern United States destinations and funneling the proceeds of the sale through numerous bank accounts. SIS Special Agents investigated the account holders, public records regarding real property and vehicle assets, bank records, public employment and wage records, border crossing records and utility records of the account holders and their families which ultimately led to 17 participants using 27 bank accounts through which approximately \$2.85 million dollars flowed, with 35 vehicles and real property titled to them. During that same period of time, many members of the group were submitting fraudulent applications for DES and AHCCCS benefits, causing over \$200,000 in fraudulent payouts by the state. Fifteen defendants have already been convicted for their roles in the organization, with the leaders of the organization receiving prison terms of 10 and 9.75 years and over \$150,000 in restitution ordered to DES and AHCCCS. This case is an example of how the AGO not only identified and targeted a racketeering corrupt organization, but broadened the enforcement efforts by bringing in other law enforcement and public benefits enforcement agencies and completing a comprehensive investigation and dismantling of the racketeering activity.

Criminal Division

State v. Leighan Marie Sebring - Leighan Sebring was employed as the general manager and controller for a large and well-loved family-owned business in Tucson. A Tucson Police Department investigation determined that over the course of three years, Sebring embezzled in excess of \$350,000 from the business by pocketing cash deposits and falsifying financial spreadsheets. Despite the defendant doctoring spreadsheets and shredding a significant volume of internal paperwork, the Tucson Police Department was able to establish a case. The defendant pled guilty to two counts of Theft and agreed to provide the victims \$30,000 in up front restitution. Sebring was sentenced to 1.5 years in prison, followed by seven years of probation and was ordered to pay \$349,369 in restitution.



In re: Google Order to Show Cause - BCS prosecutors prevailed over Google in litigation related to the mega-corporation's refusal to comply with a Pima County Superior Court judicial order obtained by prosecutors to produce child pornography images suspected to be stored in its servers, BCS previously had sought and obtained in open court, an order pursuant to A.R.S. 13-3016 for production by Google of child pornography in accounts belonging to a defendant already under indictment for possession of child pornography. When Google refused to comply, BCS filed for an Order to Show Cause. At the OSC hearing, Google maintained that a court order was insufficient and insisted it was required to comply only with a search warrant. The AGO asserted that Google could not sit as a super-judiciary over the actual judiciary and was required to comply with a valid court order. The court, agreeing with the BCS prosecutors that the prior court order to produce any child pornography related-evidence was superior to any search warrant because a court order clearly provided greater due process protections to the defendant, ordered Google to comply or be held in contempt of court. By the court-imposed deadline, Google produced additional images of child pornography from the defendant's cloud-based storage.

State v. Thaddaeus Ruelas - Five-time convicted felon, Thaddaeus Ruelas, was convicted at trial on 19 counts, including Conspiracy, Transportation for Sale of Methamphetamine, Possession of Heroin and Cocaine, Use of Wire Communications in Drug Transactions and Misconduct Involving Weapons, for selling over 600 grams of methamphetamine and a .40 caliber hand gun. Ruelas faces mandatory prison sentences between 10.5 – 245 years at sentencing.



State v. Bustamante Castro - A DPS Trooper stopped the defendant with 40 pounds of methamphetamine and nearly ten pounds of heroin separated into 42 packages concealed in a hidden compartment. The defendant was convicted of Attempt to Transport a Dangerous Drug and Transportation for Sale of a Narcotic Drug and sentenced to three years in prison.

State v. Erick Erives et al - After a year-long investigation by the DEA Sierra Vista field office, agents determined that Erives, who was linked directly to the Sinaloa Cartel and seven associates were responsible for coordinating

the transportation of hundreds of pounds of marijuana per week from Mexico to Tucson. A financial investigation also showed Erives and his fiancé Sorina Morales were receiving AHCCCS benefits, as well as food stamps despite hundreds of thousands of dollars in drug proceeds moving through their bank accounts. Eight defendants were indicted on numerous charges including Money Laundering, Fraudulent Schemes and Artifices, Transportation of Marijuana for Sale, Theft, Forgery, Misconduct Involving



Weapons, Illegally Conducting an Enterprise, and Conspiracy. Erives pled guilty and is facing up to 7.5 years in prison. Six others also were convicted, with two receiving prison sentences and four being placed on probation. One defendant's charges still are pending.

State v. Xavier Lopez - A detective with DPS was on surveillance for an unrelated case when Xavier Lopez parked next to the undercover detective and conducted two separate drug deals. During a search of the Lopez's car, police found 61 grams of heroin, 24.9 grams of cocaine ,and 50 oxycodone pills packaged for sale in small baggies and \$1,477 of cash hidden in the center console. Lopez had a loaded Glock handgun in his waistband when arrested and loaded gun magazines, later determined to be stolen from DPS, were found in the car. Lopez, who had two prior felony convictions for drive-by-shooting and burglary, was convicted on all counts after a bench trial and sentenced to 15.75 years in prison.



State v. Enrique Moreno - An Arizona DPS trooper stopped the defendant on Interstate 10 with approximately \$450,000 in cash that was concealed in a duffel bag inside the defendant's car. The cash was vacuum-sealed in plastic bags, then wrapped in cellophane with dryer sheets, and then wrapped again with black duct tape, and rubber-banded together in \$50,000 increments. The defendant was convicted of Solicitation to Commit Money Laundering in the Second Degree, admitting that he was being paid to transport bulk cash from drug sales to Mexico. Sentencing is pending.

State v. Noe Garcia-Pinuelas - An Arizona DPS trooper stopped the defendant with 17 pounds of methamphetamine packaged for distribution concealed in a spare tire. A further search of the vehicle located 18 additional pounds in a secret compartment in a panel of the vehicle. The defendant was convicted of Transportation of a Dangerous Drug for Sale and sentenced to four years in prison.

State v. Undrea Edwards et al - After several months working an undercover investigation, Bureau of Alcohol, Tobacco, Firearms & Explosives (ATF) agents arrested Undrea Edwards along with two others for the sale of heroin, crack cocaine and methamphetamine. Agents seized more methamphetamine and heroin during a search warrant of Edward's house, as well as a loaded firearm. Edwards, a three-time convicted felon, was convicted of Illegally Conducting an Enterprise, Conspiracy to Sell Narcotic and Dangerous Drugs, and Misconduct Involving Weapons and was sentenced to six years in prison.

State v. SigiFernando Tolan - Tucson Police Department detectives along with Homeland Security Investigations (HSI) agents traced \$133,000 worth of laundered money into straw accounts associated with SigiFernando Tolano. Pursuant to a search warrant, detectives found 167 pounds of marijuana and a pound of methamphetamine during a search of his house. Detectives also found three fully loaded handguns, including a handgun with a ground off serial number. Tolano was on probation for other felony drug offenses and was prohibited from possessing firearms. Tolano was convicted of Illegally Conducting an



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Enterprise, Conspiracy to Possess a Dangerous Drug for Sale and Money Laundering and Misconduct Involving Weapons and was sentenced to 6.5 years in prison.

State v. Gina Raquel Ortiz - Undercover DPS detectives assigned to the Gang and Immigration Intelligence Team Enforcement Mission (GIITEM) Task Force purchased four quarter-ounce quantities of methamphetamine from Ortiz on four occasions. At the end of the investigation, a search warrant was served on Ortiz's residence and another quarter ounce quantity of methamphetamine was recovered. Ortiz pled guilty to Solicitation to Sell a Dangerous Drug and Attempt to Sell a Dangerous Drug and was sentenced to 2.5 years in prison.

State v. Eduardo Inzunza Ramos - A DPS Trooper attempted to make a traffic stop on a truck east of Tucson on I-10 for an equipment violation. After initially stopping for the officer, the driver of the truck fled the scene as the officer

approached the truck on foot. A high speed chase ensued and the truck traveled at speeds exceeding 100 mph. After the truck veered off the roadway and crashed into an embankment, Ramos was arrested. In the vehicle, police found 312 pounds of marijuana wrapped in burlap sacks. Ramos pled guilty to Attempt to Transport Marijuana for Sale and Unlawful Flight from a Pursuing Law Enforcement Vehicle and was sentenced to 2.5 years in prison.



Drug & Racketeering Enforcement Section

DRG combats drug trafficking and money laundering organizations operating within Arizona. Attorneys in this Section also provide legal advice and training statewide on issues involving search and seizure, Arizona's drug laws, legal and procedural requirements of electronic interception and courtroom testimony.

Overview of Accomplishments

In FY16, DRG had 616 open cases and resolved 303 of them. DRG cumulatively charged 383 defendants with felony offenses. Total drug seizures included 1,489.27 pounds of methamphetamine, 157.49 pounds of heroin, 191.46 pounds of cocaine, seven pounds of raw opium, 5,195.56 pounds of marijuana along with \$7,965,991 cash. DRG also obtained \$973,850 in court ordered fines and \$21,524 in restitution.

Major Cases

Investigation #CWT-446 - In July 2013, agents from the DEA Strike Force and Tempe Police Department began an investigation targeting a large drug trafficking organization (DTO) operating out of Culiacan, Sinaloa, Mexico. Based upon the investigation which has involved a court authorized wiretap, between July 2015 and June 2016, investigators have successfully seized 153 pounds of methamphetamine, 35 kilos of cocaine, 19 pounds of heroin, 120 pounds of marijuana and \$2.6 million in cash of illegal drug proceeds intended for the DTO in Mexico. Additionally, during that timeframe, 33 individuals were indicted for their roles in the DTO. The total seizures in the investigation from its inception in July



2013 are 1,134 pounds of methamphetamine (wholesale value of \$4,536,000), 60 kilos of cocaine (wholesale value of \$1,518,000) and 102 pounds of heroin (wholesale value of \$1,173,000). During this past year, several defendants have entered plea agreements and received significant sentences, such as the following defendants:

State v. Francisco Javier aka Mecca - Case investigators identified Javier as a courier for the Culiacan, Sinaloa DTO. He was responsible for transporting large quantities of methamphetamine and cocaine across the border from Mexico into the United States. The defendant pled guilty to Transportation for Sale of Dangerous Drugs and was sentenced to an aggravated term of seven years in prison and ordered to pay a fine of \$25,000.



State v. Fidencio Rodriguez-Perez and Karla Torres - Through their investigation, detectives and agents discovered that Rodriguez-Perez and Torres were responsible for receiving and distributing large quantities of methamphetamine and cocaine at the direction of their bosses in Mexico. Rodriguez-Perez pled guilty to Possession for Sale of Dangerous Drugs and Torres pled guilty to Conspiracy to Possess for Sale Dangerous Drugs. They were each sentenced to five years in prison and Rodriguez-Perez was ordered to pay a \$9,000 fine.

Investigation #CWT-470 - During an investigation conducted by the DEA and the Phoenix Police Department, investigators targeted a group of individuals based in Phoenix, Arizona who were responsible for receiving from Mexico and distributing quantities of methamphetamine and cocaine. From the investigation, which included a court authorized wiretap, investigators determined that the methamphetamine received in Phoenix from Mexico was intended to be sent to cities in Minnesota where it was being sold for a significant profit. Twelve individuals were indicted and successfully prosecuted as a result of the investigation. One example is:

State v. Jesus Velasquez-Bonilla - During the course of their wiretap investigation, detectives and agents determined that Velasquez-Bonilla was responsible for supplying large quantities of methamphetamine in the Phoenix area to drug dealers who were coordinating the shipments of the methamphetamine to locations outside of Arizona. Velasquez-Bonilla pled guilty to Conspiracy to Possess for Sale Dangerous Drugs and was sentenced to five years in prison and ordered to pay a fine of \$25,000.

Investigation #CWT-483: During an investigation conducted by the HIDTA task force, investigators targeted a DTO operating out of Nogales, Mexico which was determined to be responsible for coordinating the receipt and distribution of methamphetamine and cocaine in the Phoenix area. During the investigation, which also involved a court authorized wiretap, investigators identified several individuals in the Phoenix area who were responsible for assisting the Organization by receiving and distributing the drugs in the Phoenix area. As a result of the investigation, investigators seized 21 pounds of methamphetamine, a kilogram of cocaine and approximately \$50,000 in cash. DRG indicted 12 defendants for their roles in this case. Prosecution is ongoing.

State v. Thomas Westenfelder and Sarina Dawn Liles - In November 2014, the Phoenix Police and Fire Departments responded to 9-1-1 calls about an explosion at an apartment complex. Investigators found that there had been an explosion in Westenfelder's and Lile's apartment due to an illegal cannabis lab. Both the rear and front windows were blown out, with glass found up to 50 feet away. Police searched the apartment and found among other drug paraphernalia over 4.5 pounds of marijuana and two ceramic containers with Butane Hash Oil (BHO) evaporating and hash oil/wax. Both Westenfelder and Liles were not found to be at the apartment on the date of the explosion;

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however, Westenfelder's fingerprints were found on the butane containers. Inside of the apartment, police found indicia that both defendants resided there. Westenfelder pled guilty to Manufacture of a Narcotic Drug with one prior felony and was sentenced to 9.25 years in prison and ordered to pay a fine of \$9,150. Liles pled guilty to Manufacture of a Narcotic Drug with one prior felony and was sentenced to seven years in prison and also ordered to pay a fine of \$9,150.

Investigation #CWT-480 - This investigation began in the summer of 2015 with agents from DEA and the Phoenix Police Department. The focus of the investigation was a cocaine and heroin trafficking organization which was



purchasing cocaine and heroin for Mexico-based cartels and shipping the drugs to Michigan and Massachusetts. During the course of this investigation, which also involved a court authorized wiretap, investigators learned an Arizona-based individual would purchase the drugs and send them back east with couriers flying commercially or in the mail. The investigation led to the indictment of nine individuals and the seizure of \$43,714

in drug proceeds, three kilograms of heroin and six kilograms of cocaine. Prosecution is ongoing.

State v. Wesley White - In November 2015, police pulled over a semi-truck driven by White. During the equipment inspection, police noticed that White was transporting more pallets than his bills of lading reflected. When one pallet was inspected, police found marijuana inside of a box labeled "garlic cheese." Police found a total of 636 pounds of marijuana and 6.4 ounces of hash oil in the "garlic cheese" cover-load. The hash oil alone was worth over \$20,000. When his truck cab was searched, police found unused "garlic cheese" labels. Further, police determined that some of the bills of lading were forged, which was done to hide his route from California. White pled guilty to Solicitation to Commit Transportation of Marijuana for Sale in an Amount Over the Statutory Threshold and was sentenced to 1.5 years in prison and ordered to pay a fine of \$5,490

State v. Seth Jones - In August 2015, police pulled over a car on SR-87 near MPI93 for speeding. During the traffic stop, police noted that Jones was the driver and sole occupant. Jones was investigated for drug DUI based on his symptoms of impairment. Based on the DUI investigation, ones was arrested and his car was impounded. During his arrest, he asked the officer "is spice legal?" During the impound search, police found a small amount of methamphetamine and a glass pipe near the driver's seat. In the back seat, police found a plastic shopping bag, which had 23 small bundles of spice (Indazole-3-carboxamide), each individually packaged inside of balloons and packaged for sale. The total weight of the drugs was 503 grams, which is 1.1 pounds. Police later determined that the spice was intended to be smuggled into prison. Jones pled guilty to Illegally Conducting an Enterprise and Solicitation to Commit Transportation of Dangerous Drugs for Sale and was sentenced to 2.5 years in prison, followed by three years of probation and ordered to pay a fine of \$5,490.

State v. Frank Phillips - In June 2015, police were conducting surveillance on Charles Williams and Frank Phillips at a hotel near Sky Harbor Airport. Williams and Phillips were believed to be in the process of purchasing narcotic drugs from David Sesma. After a period of surveilling Phillips, police attempted a traffic stop on the vehicle driven by Phillips, but Phillips drove off at a high rate of speed. Phillips was able to successfully lose police for a few minutes. Phillips' vehicle was found a short time later after it crashed near 24th St and Vineyard. One of the officers pursuing Phillips retraced the route Phillips took and found seven pounds of cocaine and \$30,000 cash on

the side of the road. Police were able to successfully identify Phillips through belongings he left in his hotel room. Phillips was found in Missouri, extradited to Arizona. He pled guilty to Money Laundering and sentenced to 3.5 years in prison and ordered to pay a fine of \$3,660. Williams pled guilty to Money Laundering and sentenced to two years of probation.

Investigation #CWT-477: In August 2015, the Tempe Police Department, DEA and HIDTA Task Force initiated an investigation targeting a Mexico-based organization responsible for the importation of large quantities of heroin into Arizona. The investigation lasted for approximately five months. Investigators seized approximately 180 pounds of methamphetamine (valued at \$630,000), 18 pounds of cocaine (wholesale value of \$225,000) and 100 pounds of heroin (wholesale value of \$1,250,000). From August 2015 through February 2016, 24 defendants were indicted for their roles in this case. Prosecution is ongoing.

State v. Cesar Romero Lopez et al. - Investigators identified Cesar Romero Lopez as a major distributor of methamphetamine during an investigation conducted by the Tempe Police Department and the DEA. Police seized one kilogram of cocaine (wholesale value of \$25,000), three kilograms of heroin (wholesale value of \$75,000) and four pounds of methamphetamine (wholesale value of \$14,000) from various couriers and customers of Romero Lopez. Police also seized a bulk cash shipment that Romero Lopez was responsible for, totaling over \$520,000. Romero Lopez pled guilty to Money Laundering, Possession of Narcotic Drugs for Sale and Conspiracy to Possess Dangerous Drugs for Sale and was sentenced to nine years in prison followed by supervised probation.

Investigation #CWT-484 - In March 2016, agents from the DEA and detectives with the HIDTA Task Force targeted a Mexico-based drug transportation organization. This DTO primarily transported heroin into the United States, but is also responsible for the importation of large quantities of methamphetamine and cocaine. This investigation is ongoing. To date, police have seized approximately 30 pounds of methamphetamine (wholesale value of \$105,000), ten pounds of cocaine (wholesale value of \$125,000) and 108 pounds of heroin (valued at \$1,350,000). Thus far, six individuals have been indicted arising out of this investigation.

State v. Western Union - In January 2014, the AGO entered into an amended settlement agreement with Western Union to ensure that Western Union implements a state-of-the-art anti-money laundering program. This agreement requires Western Union to implement more than 100 primary and secondary recommendations made by outside consultants to refine its anti-money laundering program. The implementation of the primary recommendations and an evaluation of Western Union's Southwest Border anti-money laundering program was tested by a court-ordered appointed monitor pursuant to the amended settlement agreement. In June 2016, the court-appointed monitor released its report indicating that Western Union successfully implemented the primary recommendations and has an effective anti-money laundering program. Based upon the monitor's report and the Transactional Analysis Center's review of the data provided by Western Union and numerous other money transmitters operating within the Southwest Border Area, our office's analysts and attorneys believe that Western Union will have the most robust anti-money laundering program in the money transmitter industry after the secondary recommendations are implemented.

Criminal Division

Financial Remedies Section

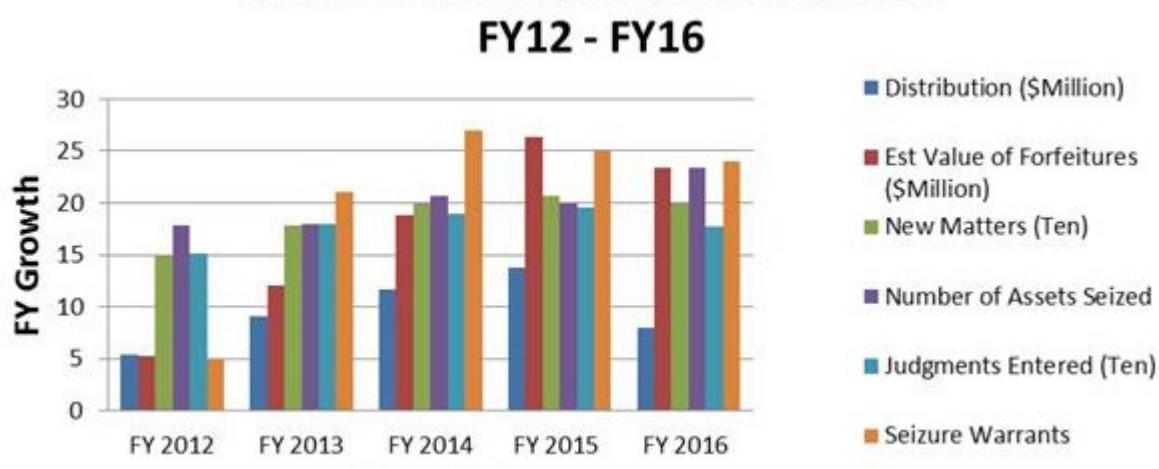
FRS disrupts and dismantles criminal organizations by investigating and prosecuting racketeering lawsuits that seek monetary judgments and the forfeiture of proceeds and property derived from and dedicated to racketeering activity. The purpose of these civil lawsuits is to remediate the economic injury caused by individuals and criminal enterprises who engage in profit-motivated felonies, to compensate victims for their economic loss, to remove the proceeds and property gained and used in the illegal activity and to re-dedicate those assets to law enforcement for additional training, investigations, prosecutions, operations and programs that protect the public. FRS brings cases arising from a wide range of crimes, including drug trafficking, money laundering, theft, fraud schemes, counterfeit merchandise, securities fraud, illegal gambling, prescription drug “pill-mill” enterprises and food stamp and other public benefits fraud. FRS works with many federal, state and local law enforcement partners, seizes bulk cash and financial accounts and a wide-range of real and personal property, manages all the seized property and distributes the proceeds of forfeited property to victims, state agencies and investigating law enforcement agencies. FRS also works with other sections of the Criminal Division to help secure and recover restitution for citizens, businesses and state agencies that have fallen victim to racketeering crimes.

Through the use of Arizona's racketeering and forfeiture laws, the cases brought by FRS deprive profit-driven criminal enterprises of the property and profit that keep them in business, deter others from committing such crimes and alleviate and remedy the negative impact that racketeering has on Arizona's citizens and legitimate commerce.

Overview of Accomplishments:

During FY16, FRS disrupted 121 criminal enterprises and filed 222 forfeiture actions against 2,344 in personam defendants and in rem assets. FRS obtained 27 seizure warrants authorizing the seizure of assets worth \$23 million dollars. FRS successfully concluded 240 cases, obtained final judgments that forfeited assets worth more than \$16 million dollars and distributed over \$8 million dollars to crime victims, state agencies and its law enforcement partners. FRS attorneys conducted 25 forfeiture trainings attended by 205 law enforcement agents from across the state.

FRS also continues to protect the integrity and effectiveness of forfeiture practices in Arizona by educating practitioners about this public safety and compensatory resource by providing good stewardship over the application of Arizona's racketeering and forfeiture statutes. FRS continues to train and work closely with law enforcement and regulatory agencies across Arizona in identifying and addressing emerging crime trends. FRS follows the numerous due process safeguards built into the statutes that insure the rights of property owners to enter and contest cases and that protect legitimate private and commercial property interests that are exempt from forfeiture. FRS obtained two appellate court opinions resolving procedural and jurisdictional issues. FRS is defending the statutes against a suit brought in federal court challenging their constitutionality and seeking injunctive relief. FRS chairs the statewide association of police and prosecutors who conduct forfeitures, with the purpose of promoting the informed, consistent, professional and ethical practice of forfeiture cases in Arizona through education on case law decisions, legislative measures, investigative resources and best practices in forfeiture investigation and prosecution strategies, techniques and procedures.



Carrying Out the Purpose of Financial Remedies

Arizona's Courts have recognized that the purpose of our racketeering statutes is "removing the economic incentive to engage in racketeering, reducing the financial ability of racketeers to continue to engage in crime, preventing unfair business competition by persons with access to crime proceeds, compensating victims of racketeering and reimbursing the State for the costs of prosecution." The following are cases FRS conducted over the last year in carrying out this purpose.

Major Cases

Drug Trafficking - Drug trafficking continues to be a major criminal enterprise in Arizona.

State v. Javier Rivera-Vega, et al. - The United States Homeland Security Investigations (HSI) conducted a wiretap investigation, takedown and federal prosecution of a major DTO and its participants. The DTO generated at least \$8 million dollars in illicit proceeds during its operations. FRS worked with Homeland Security Investigations (HSI) to freeze bank account activity and ultimately obtained a seizure warrant for the accounts and other property. FRS forfeited significant amounts of the tainted money, real properties and vehicles used in the DTO's illegal operations.



Wiretap Cases - FRS continued to file companion forfeiture cases in support of drug-based wiretap cases being prosecuted by Criminal Division Sections. For example, in one continuing wiretap investigation alone FRS obtained forfeiture judgments against an aggregate of \$850,000 in cash seized in several cases developed from that investigation. In total, FRS brought 25 cases seeking forfeiture of \$1.7 million dollars in support of five wiretap investigations.

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State v. Perry Lee Hester, et al. - The Maricopa County Sheriff's Office (MSCO) Drug Suppression Task Force conducted an investigation of a suspected illegal marijuana grow inside a Phoenix warehouse. Upon executing a search warrant at the warehouse, officers found a commercial marijuana grow operation consisting of 552 marijuana plants, 46 pounds of harvested marijuana and three pounds of hashish, a narcotic drug. The grow operation violated the Arizona Medical Marijuana Act by using fraudulently obtained patient/caregiver cultivation cards, by growing at a non-certified site and by growing marijuana far in excess of any legal amount. Officers found approximately \$177,000 in cash and 20 firearms with ammunition at the warehouse and several residential search locations. The investigation established the illegal grow had produced about \$18 million worth of marijuana and had the ability to yield \$13 million in income annually. FRS initiated a forfeiture action seeking a judgment in that amount and forfeiture of the seized cash, 12 bank accounts, nine vehicles, three real properties and the extensive inventory of property and equipment being used to grow the marijuana.



Bulk Cash Smuggling - A recent 9th Circuit Court of Appeals decision recognized that the movement of large sums of cash is "one of the most reliable warning signs of drug trafficking, terrorism, money laundering, racketeering, tax evasion and similar crimes," that enforcement against bulk cash smuggling "effectively combats these various types of serious criminal activity" and these efforts "help break the cycle of criminal activity of which the smuggling and laundering of bulk cash is a critical part."

In the Matter of \$290,000 - A Department of Public Safety (DPS) Trooper stopped a truck on I-40 in Navajo County near Holbrook. The driver consented to a K-9 sniff of his truck. After a positive alert on the rear of the truck, Troopers searched the truck and found a small amount of marijuana in the center console, nearly 30 air fresheners and ten cell phones. They also identified several new tool marks on the underside of the truck. After impounding the vehicle and taking it to a local tire shop to continue the search, Troopers located \$290,000 in bundles hidden in a spare tire. The driver was on federal probation in Maryland and was in violation thereof by being in Arizona. After disclaiming the cash, the driver admitted he knew many people involved in marijuana and cocaine trafficking. FRS obtained a judgment forfeiting the bulk cash.



In the Matter of \$160,442 - A DPS Trooper conducted a traffic stop on a Toyota Camry, which ultimately resulted in the discovery of a large amount of cash concealed in a lead-lined compartment running the length of the car. The currency was bundled, foil-wrapped, plastic-wrapped and then vacuum-sealed. The driver claimed the cash belonged to her boyfriend and that she was going to visit relatives in Mexico. A subsequent search revealed an additional \$8,000 in her boots. The total amount of bulk cash was \$160,442. The driver was indicted and pled guilty to money laundering. FRS forfeited the bulk cash.

In the Matter of \$449,778 - A DPS Trooper conducted a traffic stop of an SUV traveling through Tucson eastbound on I-10. As he contacted the driver, the Trooper noticed the driver continued to use his smart phone. The Trooper smelled the strong scent of dryer sheets in the SUV, observed a partially covered duffel bag on the rear floorboard and was met with continuing nervous behavior and inconsistent answers by the driver. A drug-detecting dog on-scene alerted on the SUV door and a search of the SUV followed. The duffel bag contained nine duct-taped bundles containing \$449,760 cash in rubber banded and vacuum-sealed packages. A follow-up investigation showed that the driver had been arrested a month earlier in another county for delivering five pounds of heroin. A later wiretap investigation established that the driver was a drug and money courier for a large DTO. FRS obtained a forfeiture judgment against the bulk cash.



Money Laundering Through Funnel Accounts - In FY16, FRS brought actions against over 300 identified bank accounts used to funnel over \$10 million in racketeering profits from other states into Arizona for distribution to drug suppliers.

State v. Carlos David Nogales et al. - SIS Special Agents brought FRS the results of its investigation into a family-based group of conspirators who, from 2009 through 2015, moved \$2.85 million in racketeering proceeds from other states to Pima County through funnel accounts and then to Mexico through wire transactions and physical smuggling. Investigating agents interdicted multiple packages of marijuana from vehicles and from packages shipped at public and private postal services and interdicted a number of decoy packages. The group acquired real property and vehicles and paid for their living expenses with their share of the funds. Additionally, the group committed forgery, fraud and theft of public benefits by applying for and receiving approximately \$230,000 in financial benefits, assistance and services on behalf of themselves and dependent family members for which they were ineligible because they did not report fully and accurately the funds in their accounts, their financial gain, their assets and their true financial profile. FRS assisted SIS with a seizure warrant against 27 bank accounts, 35 vehicles, one real property and a mobile home titled to the suspects. FRS brought an action in personam seeking to recover \$3 million dollars based on the scope of the criminal enterprise and the injury it caused; along with in rem counts against \$195,000 worth of the group's assets seized pursuant to the warrant.

State v. Alma Katrina Huerta-Sanchez et al - This case arose from a DEA investigation into the money laundering activities of two unregistered Mexican Casas de Cambio operated by Huerta-Sanchez and Rivera-Lopez. The investigation, which included the use of multiple confidential sources, uncovered a conspiracy to launder drug proceeds by means of a courier collecting and depositing funds in cities outside of Arizona into bank accounts owned by businesses and individuals in Arizona. Huerta-Sanchez admitted to the courier that she knew the funds were being laundered for a DTO. The courier recruited other couriers, including one that became a DEA informant. The investigation into accounts that were still open and receiving deposits uncovered 30 accounts, 22 of which were seized pursuant to a FRS seizure warrant. The total amount seized from the accounts was approximately \$450,000. FRS obtained judgments against \$170,000 from 19 accounts and is still litigating two claims to three accounts for the remaining \$280,000.

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Illegal Gambling

State v. James Franklin Cable, et al - FRS resolved a forfeiture case arising from an illegal gambling enterprise investigated by the Arizona Department of Gaming and the Glendale Police Department. Officers executed search and seizure warrants and shut down an illegal gambling business called the “Jackpot Café” located in a Glendale strip mall. The business was owned by a Texas resident and his Limited Liability Corporation (LLC). Players paid money to play simulated slot machine and video poker games. The defendant and his LLC initially claimed their operation was an exempt “sweepstakes,” and later that they were merely selling “internet” access. In the settlement agreement, the defendant and his LLC consented to the forfeiture of all of the property seized from him, his business and his LLC, including approximately \$120,000 in bank accounts and proceeds, an ATM cash machine and over 55 gambling stations. Proceeds in the sum of \$30,000 was paid to the Clerk of Court in the related criminal case to be applied toward the defendant’s fine.

Victim Compensation

FRS also assisted other sections in the Criminal Division in several cases by securing property belonging to defendants charged with fraud, theft and embezzlement and by helping to place restitution liens against their property for the benefit of the citizen and state agency victims involved in those cases.

In the Matter of \$189,373 and \$202,000.00 in Bank of America Account - FRS, working with a prosecutor from the BCS and the Federal Bureau of Investigations (FBI), obtained a forfeiture judgment that recovered \$189,373

and \$202,000 for two Tucson victims of fraud and theft arising from separate real estate transactions for properties in Chicago, Illinois. Each victim received an email purportedly from their title companies giving them a Bank of America account routing number and directions for wiring the closing funds for the real estate sales and each victim wired the closing funds.

After receiving further emails from the title companies requesting the closing funds, the victims and title companies discovered they had been scammed by a fraudster and the funds had been diverted. The prosecutor and FBI contacted FRS, which immediately sought and obtained a seizure warrant for the fraudster’s account.

Fortunately, the funds were still in that account. While the criminal investigation continued, FRS was able to bring a forfeiture action that quickly resulted in the recovery of the funds for the victims and preserved the completion of their real estate transactions.

Public Embezzlement

State v. Michael Veit, et al - Michael Veit was the Chief Procurement Officer at the Arizona Healthcare Cost Containment System (AHCCCS) for 27 years. An internal audit conducted by the AHCCS Office of the Inspector General revealed that Veit and other co-conspirators created fictitious vendor payments and diverted those

payments to them in order to steal public funds totaling upwards of \$10 million dollars. Working with SIS agents, FRS brought a racketeering forfeiture action to recover as much loss as possible, using a seizure warrant to secure property of the defendants. The FRS case seeks a \$4.25 million judgment and forfeiture of \$192,000 cash, 28 bank accounts, 18 vehicles, five real properties and 64 various items of personal property, including numerous firearms and ammunition, gift cards, multiple sets of golf bags and clubs, tool sets and other equipment. All forfeiture proceeds will be paid to AHCCCS as compensation for its economic loss.



Public Benefits Fraud

Public benefits are earmarked for the poorest members of our state. FRS has seen a rise in the amount of public benefits fraud and theft, which takes these scarce resources away from our citizens who need it most.

State v. Edward Sayegh - This case involved the investigation and prosecution of a local medical doctor who, among other illicit activities, committed significant billing and AHCCCS fraud schemes and furnished prescriptions for controlled substances with no evidence of medical justification. The doctor was a substance abuser himself. This case involved many moving parts, sophisticated defense counsel and various claims of ownership, co-ownership and exemptions from forfeiture. Ultimately, FRS forfeited slightly over \$431,000 and returned over \$228,000 to AHCCCS as the victim agency of Sayegh's fraud. Sayegh was prosecuted criminally by the AGO's Healthcare Fraud & Abuse (HCFA) Section and received a lengthy prison sentence.

State v. Ricardo Pena-Cota, et al - Pena-Cota and Pena de Cruz operated a small "import-export" business in Douglas. DEA and HIDTA agents discovered that the business was receiving large amounts of cash that were then bounced around Pena-Cota and Pena de Cruz's bank accounts before being withdrawn either through business checks, wires or cash transactions. All bank accounts showed evidence of money laundering. A search warrant conducted on the Douglas business offices of Pena Cota Trucking showed that it did not have utilities, employees or substantive business records. The case also revealed that during the relevant period of criminal activity the family and their minor children were receiving AHCCCS benefits in the amount of approximately \$19,000. After protracted litigation the State forfeited approximately \$94,607, recovering \$19,607 in victim restitution for AHCCCS.

State v. Shafyullah Ismail, et al - This case involves the Joint Terrorism Task Force (JTF), Department of Economic Security (DES) Office of Inspector General (OIG) and the United States Department of Agriculture (USDA) relating to a fraud scheme investigation into electronic benefit transfers (EBT) and Women in Crisis (WIC) by an authorized food stamp and WIC vendor. The vendor engaged in improper sales and fraud involving public benefits totaling \$192,901. FRS is seeking the recovery of the amount of funds misused through the complicity of this vendor in providing a market for the wrongful expenditure of public assistance benefits.

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Fraud & Special Prosecutions Section

The Fraud & Special Prosecution's Section (FSP) prosecutes white collar crime and fraud by individuals and organized criminal groups and organizations. FSP typically prosecutes criminal fraud in areas such as securities, insurance, real estate, mortgage, banking, taxes, government, telemarketing, computers, welfare and other areas of financial activity. FSP also focuses on gang related crimes, human and sex trafficking and handles conflict matters from other counties.

Overview of Accomplishments

In FY16, FSP had 924 open cases and resolved 306 of them. FSP cumulatively charged 386 defendants with felony offenses, including Fraudulent Schemes and Artifices, Illegal Enterprise, Participating in Criminal Syndicates, Money Laundering and numerous violent crimes. The cases of Fraudulent Schemes involved losses to victims in the millions of dollars. FSP assisted approximately 2,675 victims and obtained restitution in excess of \$39,688,860 and \$69,535 in court ordered fines.

Sections within the Criminal Division are also responsible for handling probation violation cases throughout the year. This fiscal year 94 defendants were prosecuted for violation of their terms of probation.

Major Cases

State v. April Mooney - From 2010 to 2014, April Mooney worked at J.F. Ellis Corporation, a construction business in Gilbert. Gilbert Police Department investigators revealed Mooney had committed various Fraud Schemes against her employer, stealing approximately \$240,000. Mooney used the money to pay for vacations, dining out, shopping trips and cash withdrawals at various casinos. After a lengthy jury trial, Mooney was found guilty of Theft and Fraudulent Schemes and Artifices. She was sentenced to the presumptive term of five years in prison for Theft, followed by supervised probation with white collar terms for seven years on Fraudulent Schemes and Artifices counts. Mooney was also ordered to pay a stipulated \$125,000 in restitution to the victim, her employer J.F. Ellis Corporation.

State v. Vincent Millard Collins - In April 2015, an investigation by Immigration and Customs Enforcement's (ICE), HSI identified "taz_maniac" as an individual sharing child pornography. HSI identified the user as Vincent Collins. Agents searched Collins' Phoenix home and found a computer in his room with the username of "TAZ". After a forensic analysis, thousands of images and videos of child pornography were found on Collins' computer. Collins admitted to sexually abusing a child and taking numerous pictures and videos of the abuse. Collins pled guilty to Sexual Exploitation of a Minor and Attempted Sexual Conduct with a Minor and was sentenced to 35 years in prison, followed by a lifetime probation upon his release from prison. Furthermore, Collins must register as a sex offender.

State v. Jeffrey Heady - Jeffrey Heady was involved in a multi-million dollar Ponzi scheme and was charged with multiple counts of Fraudulent Schemes and Artifices and Theft. The defendant stole more than \$1,000,000 from 15 different families. He did this by offering fake investments into bridge loans. When he obtained new investor funds, he would use a portion of it to pay old investors and then take some of the money for himself. In October,

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2015, Heady pled guilty to four counts of Fraudulent Schemes and Artifices and was sentenced to five years in prison, followed by seven years of probation upon his release and ordered to pay the victims more than \$1,000,000 in restitution.

State v. Gabriel Morris - Morris used the victim's identity to file an auto damage insurance claim with GEICO for a 2013 Dodge Durango. Morris' crimes were uncovered when GEICO who contacted the victim to see if he needed a rental car while his vehicle was being repaired. The victim informed GEICO that he had not filed a claim and did not own a Durango. GEICO coordinated with the Arizona Department of Insurance (DOI) Fraud Unit and Tucson Police Department to schedule a date for Morris to pick up a claim check from GEICO. When Morris arrived at the Tucson GEICO office and saw law enforcement officers, he ran across Speedway where he was tackled by officers. After his arrest, forged Tucson Electric and Direct TV checks were found in the Durango, along with 29 Series E savings bonds that were reported stolen from an 80 year old victim's home. After a lengthy trial, Morris was found guilty by a Pima County jury for charges involving Theft and multiple counts of Forgery. He was sentenced to 20 years in prison, followed by a consecutive term of 12 years in prison each for five counts of Forgery.

State v. Anthony Wyatt - HSI discovered that Anthony Wyatt was using a file sharing server that was known to share child pornography. The defendant was contacted by police and agreed to allow them to search his computer. A forensic analysis located images and videos of child pornography in unallocated and allocated space on the computer. In addition, Wyatt was also morphing images of children onto images of child pornography. Wyatt pled guilty to Sexual Exploitation of a Minor and Sexual Exploitation of a Minor, both dangerous crimes against children and was sentenced to 14 years in prison followed by two terms of life time probation upon his release from prison. Furthermore, Collins must register as a sex offender.

State v. Gerardo Alonzo Avila - Gerardo Avila filed an insurance claim stating that his home was burglarized and inflated his claim by stating valuable Native American artifacts worth more than \$220,000 were stolen. In support of his claim, Avila provided photographs of baskets and pottery. After an investigation by the DOI and Liberty Mutual Insurance Company, it was determined that the photos Avila provided depicted items on display at the Huhugam Heritage Center run by the Gila River Indian Community. The artifacts were from a Snaketown archaeological site and had been in the possession of the Arizona State Museum's Archaeological Repository Curator since the site was excavated in 1934 and 1965. The artifacts were transferred to the Gila River Community's Huhugam Cultural Center in 2004. Avila pled guilty to Insurance Fraud and was sentenced to one year in prison and ordered to pay restitution in the sum of \$9,531.10 to Liberty Mutual.



State v. Jimmica Guess - Jimmica Guess was an insurance agent, who submitted forged annuity applications and checks, without the annuitants' knowledge. Guess was paid commissions, though the annuity policies were never issued. While Guess was a licensed insurance agent in Arizona during the timeframe of April 2014 until her arrest in December 2014, she never submitted one legitimate annuity policy application to any insurance

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company. It appears that Guess' sole purpose in becoming a licensed agent was to perpetrate fraud. Guess pled guilty to Fraudulent Schemes and Artifices and Theft and was sentenced to two years in prison, followed by two years of probation and she was ordered to pay \$464,100 in restitution to five different insurance companies for the commissions she was paid for the fraudulent annuity applications.

State v. Rigoberto Lara-Corral, et al - Six members of an auto insurance fraud ring were prosecuted for Insurance Fraud, Forgery, Identity Theft and Theft in three different criminal cases. The six defendants Lara-Corral, Edgar Renteria Molina, Guillermo Altamirano, Samuel Romero Lugo, Hugo Regalado Mejia and Juan Villa were part of an insurance fraud ring centered around Champion Auto Body and The X Body Shop in Phoenix. The fraud involved multiple parties who used forged Mexican driver's licenses under false names, but displaying the defendants' photos. The false licenses were used to register and insure cars purchased at auto auctions. Typically, within 30-90 days of obtaining the auto policy a damage claim was submitted; resulting in payment from the insurance company in the form of a check payable to the person listed on the false license. The defendants' sentencing ranged from probation with jail to 1.5 years in prison. They were ordered to pay total restitution of \$154,102.94 to three different insurance companies.

State v. George and Robin Cortez - In 2010, George Cortez applied for food stamps and AHCCCS benefits for himself and his two children. In the applications, he claimed that his wife, Robin Cortez, lived in a separate residence. As a result, Robin's income was not used to determine eligibility for benefits. Several years later, DES received an anonymous tip that George and Robin lived together and likely were ineligible for benefits. An investigation revealed that Robin indeed lived in the same home as George and that her income made the family ineligible for benefits. Following an investigation by the DES/OIG, George and Robin pled guilty to Unlawful Use of Food Stamps and Fraudulent Schemes and Artifices and were sentenced to six months in jail, three years supervised probation and ordered to pay more than \$94,038 to the State of Arizona. George was immediately remanded into custody after the sentencing. Robin will also serve six months in jail, which will commence in September 2016. The court staggered the jail terms so that each parent could care for the children while the other is in jail.

State v. Derrick Anthony Valdez Sr - Derrick Anthony Valdez, Sr. was a student financial aid counselor at Arizona Automotive Institute (AAI) and was tasked with helping graduates learn about the various options available to help them to repay their federally-insured student loans. AAI's aid counselors were eligible for a bonus if they helped a percentage of their assigned students avoid default. In 2008, Valdez had not received a bonus and in 2009 he began forging federal student loan deferment documents for his assigned students, making it appear that each student had agreed to defer their loans, when in fact they had not done so. Investigators located 15 students who confirmed their forms were forged; however, investigators believe as many as 140 other students had their forms forged by Valdez as well. Because of Valdez's forged student aid forms, fewer of his assigned students appeared to be in default and he earned a \$9,601 bonus. The US Department of Education is working with lenders to minimize the financial impact on the students from these unwanted deferrals which would have capitalized the students' interest payments, increasing the amount the students would have to repay. In August 2015, the defendant pled guilty to Forgery and was sentenced to 6.5 years in prison. Valdez will serve this sentence concurrently to another prison sentence he received arising from a separate Forgery conviction from 2009. Valdez was also ordered to repay \$9,601 in restitution to the AAI.



State v. Thomas Robert Kernohan - An investigation by HSI identified Thomas Kernohan as an online trader in child pornography through a Russian file-sharing website. During a search warrant executed at Kernohan's residence in October 2013, agents located an external hard drive containing hundreds of pictures and images of suspected child pornography. Kernohan admitted to collecting the images, stating that he had "a sick fascination with young boys" and that he knew it was "obviously wrong." In November 2015, the defendant pled guilty to Sexual Exploitation of a Minor and was sentenced to 14 years in prison, followed by a consecutive term of lifetime probation which will include sex offender terms. Kernohan also is required to register as a sex offender.

State v. Michael Valentine Rosi - Michael Rosi is a career criminal, having pled guilty to his twelfth and thirteenth felony convictions involving Theft and Fraud dating back to 1984. From December 2012 to November 2013, Rosi was convicted of defrauding victims by soliciting them to invest in his car restoration business. Rosi would accept funds for certain cars which he stated he could buy, restore and then sell for a profit. Investigators determined that the defendant converted the funds for his own personal use instead. Some of the converted funds were sent to an associate who provided the money to the victims of Rosi's eleventh felony in an effort to help complete Rosi's obligations to repay those victims and hasten the end of his supervised probation. Rosi conducted these fraudulent transactions using the alias Michael James Edwards, which helped shield his criminal past from his victims. In November 2015, Michael Valentine Rosi was sentenced to 9.25 years in prison. Rosi will serve this sentence concurrently to a prison sentence for a previous probation violation for his eleventh felony. Upon release from prison, Rosi will begin a new five year term of intensive probation with specialized terms for white collar offenders and was ordered to only use his legal name while on probation. The defendant was also ordered to repay his victims over \$116,000 in losses.

State v. John Parks - From November 2013 through October 2015, John Parks, an unlicensed contractor, made repeated visits to 55+ mobile home parks in the Phoenix area. The defendant approached elderly victims at their homes unsolicited and misrepresented the need for repair work, often to the roof. Parks performed little to no work and what work was performed, was later verified by an inspector of the Arizona Registrar of Contractors to be either incorrect or unnecessary. Parks would return to the same homes over and over again to grossly overcharge victims for the services performed. (ROC) In



at least one case, the Defendant charged the victim almost four times the value of her mobile home for work that was never done. At one point, Parks was listed as one of the Arizona ROC's Top Ten Most Wanted Contractors. Parks pled guilty to two counts of Fraud Schemes and Artifices and was sentenced to ten years in prison, followed by seven years of intensive probation and ordered to pay \$136,815 in restitution to ten victims.

State v. Laura Marie Leinaar, et al : In November 2016, a jury convicted Laura Leinaar and Eric Stelljes in connection with a criminal gambling enterprise operated in Flagstaff between 2012 and 2013. The "Escape Internet Lounge" operated casino-style games which the defendants claimed were "creative reveals" of underlying sweepstakes accessed through computer terminals inside the Flagstaff business. Undercover investigations showed that the defendants did not offer entries to the purported sweepstakes without a purchase and that they also did not post the odds of winning prizes or the particular prizes offered. The defendants were convicted of Promotion of Gambling, Conspiracy and Illegally Conducting an Enterprise. Stelljes



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was also convicted of Money Laundering involving the proceeds of the business. This is the first jury verdict in Arizona against a so-called “internet sweepstakes café,” a form of illegal gambling that has previously been the subject of criminal and civil enforcement actions in other states, including Florida, Mississippi, California, Ohio and Texas. A number of separate enforcement actions against Arizona internet sweepstakes cafes are ongoing, with several having previously resulted in guilty pleas. In January 2016, both defendants were sentenced to terms of probation.

State v. Mark Edward Ray - In August 2014, an investigation by the HSI identified Mark Ray to be in possession of child pornographic images. During a search warrant executed at Ray’s residence, agents located one printed image was kept in a binder in a garage and another that was on his iPod Touch. In March 2016, Ray pled guilty to Sexual Exploitation of a Minor and was sentenced to 19 years in prison, followed by lifetime probation to commence upon his release from prison and ordered to register as a sex offender.

State v. Joseph Leggit and Kevin Krauss - Between July 2015 and August 2015, Aryan Brotherhood gang members Joseph Leggitt and Kevin Krauss were involved in trafficking methamphetamine and heroin in Phoenix. Leggitt was using an auto body shop as a front to sell methamphetamine and heroin. Krauss was purchasing methamphetamine and heroin from Leggitt and transporting the drugs to Prescott for resale. A Search Warrant was executed at Leggitt’s auto body shop which revealed multiple firearms, drug paraphernalia and methamphetamine. Both defendants pled guilty and were convicted of Conspiracy to Commit Sale or Transportation of Dangerous Drugs for Sale and were sentenced to ten years in prison. Defendant Leggitt also pled guilty to: Misconduct Involving Weapons and was sentenced to two years of supervised probation to begin upon his release from prison.

During this past year, FSP obtained the following eight convictions stemming from voters who fraudulently voted twice in the 2012 Presidential Election:

State v. Jay Sherill Thompson - Santa Cruz County -- Plea agreement – Fined \$2,500 which was paid in full at the time of sentencing; and completed 100 hours of community restitution prior to sentencing.

State v. Steven Jeffrey Streeter - Maricopa County – Plea agreement – Fined \$5,0000 which was paid in full at the time of sentencing; completed 100 hours of community restitution prior to sentencing and placed on two months unsupervised probation.

State v. Mary Patricia Gregerson - Pima County – Plea agreement – Fined \$4,575 which was paid at the time of sentencing; and completed 100 hours of community restitution prior to sentencing.

State v. Jeffery Worth Hitchcock - Graham County – Plea agreement – Fined \$2,500 which was paid in full at the time of sentencing; completed 100 hours of community restitution prior to sentencing; and placed on 12 months unsupervised probation.

State v. Franklin West Turner - Mohave County – Plea agreement – Fined \$9,150 which was paid at the time of sentencing; and completed 207 hours of community restitution prior to sentencing; and placed on 12 months unsupervised probation.



State v. Tom Lee West - Maricopa County – Plea agreement – Fined \$4,575 which was paid at the time of sentencing; and completed 100 hours of community restitution prior to sentencing.

State v. David Milton Culberson - Maricopa County – Plea agreement – Fined \$4,575 which was paid at the time of sentencing; and completed 117 hours of community restitution prior to sentencing.

State v. John David Hamrick - Maricopa County – Plea agreement – Fined \$4,575 which was paid at the time of sentencing; completed 100 hours of community restitution prior to sentencing; and placed on six months unsupervised probation.

State v. Larry Dahl - During January 2001 - December 2005, attorney Larry Dahl embezzled client funds directly from interest-bearing money market accounts by writing checks in his name. To perpetuate this scheme, Dahl constantly transferred money between 46 client money market accounts to create the illusion of accurate individual account balances. Over that time period, Dahl gambled the \$2,940,439 he stole at various casinos and lost the entire sum. The defendant was disbarred from the practice of law in 2006. In June 2015, Dahl pled guilty to Fraudulent Schemes and Artifices, Money Laundering and Theft and was sentenced to 3.25 years in prison, followed by seven years of supervised probation. Dahl was also ordered to pay \$2,940,439 to the victims involved.

State v. Steve Nolte - In 1996, Steve Nolte was hired as a computer consultant for Fulton Homes. During that time, Fulton Homes was in the process of transitioning their business operations to computers. Eventually the defendant's contract was terminated. Between April and May 1997, the defendant deposited five Fulton Homes' checks totaling \$571,649 and made payable to Etlon Communications (Etlon) into its business checking account. Etlon is a business that was incorporated by the defendant. Fulton Homes never gave authorization for these checks to be issued to the defendant or his business. Nolte then wired the funds to an account held in Costa Rica.

During this same time the defendant obtained a copy of a birth certificate for an individual named George France, who suddenly died shortly after birth in February 1966. After Nolte obtained the birth certificate, he went to the Motor Vehicle Department and obtained a driver's license in the name of George France. He then applied and obtained a passport. The passport application indicates that the defendant was going to be traveling to Costa Rica, the same place the money was wired. Upon discovering the stolen checks, Fulton Homes reported the theft to the Tempe Police Department; however, the defendant could not be located. It was not discovered until 2012 that George France is Steve Nolte. A copy of the passport issued to George France showed that he traveled to Costa Rica right after the money was transferred there. The defendant's mother testified during the trial that the person standing trial was her son Steve Nolte. George France's mother testified that her son died in 1966 and that she did not know the defendant. Additionally, Special Agents with the U.S. Department of State and biologists with the FBI Crime Laboratory in Quantico, Virginia testified in this matter. In May 2016, Steve Nolte was found guilty by a jury of committing Fraudulent Schemes and Artifices and numerous offenses of Theft. In August 2016, the defendant was sentenced to nine years in prison and ordered to pay restitution in the sum of \$571,000 to Fulton Homes. The sentence imposed by the Court was ordered to run consecutive to Nolte's three year federal prison sentence for Passport Fraud, Aggravated Identity Theft and Use of a Falsely-Obtained Social Security Number.



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State v. Lorenzo Caracciolo, Sr. and Lorenzo Caracciolo, Jr. - From January 2010 through October 2013, Lorenzo Caracciolo Jr. and Lorenzo Caracciolo, Sr. used their RV consignment business as a means to defraud 24 elderly victims, causing them to suffer life altering financial losses. The financial losses suffered by individual victims range from \$3,400 to over \$79,000. The defendants accomplished their fraud scheme by entering into agreements to sell RVs on consignment for the owner, subsequently making affirmative misrepresentations that the RV had sold for a lower purchase price than had been offered, deposit the sale proceeds into a personal bank account and never transfer any money from the completed sale to the owner. Defendants engaged in this scheme through three business entities: Canyon State RV, Kickin' Kampers and RV Coachworks. Court ordered restitution for 30 victims was in excess of \$450K. In June 2015, Caracciolo, Sr. pled guilty to Fraudulent Schemes and Artifices and Theft and was sentenced to five years in prison, followed by seven years of probation. Caracciolo, Jr. pled guilty to Theft and sentenced to 2.5 years prison, followed by four years of probation. In addition to the prison sentences, both defendants were ordered to pay restitution to the victims in the sum of \$400,000.

State v. Chalice Zeitner #1 - Between March and April 2010, Chalice Zeitner represented to her obstetrician that her life was endanger if she continued with her pregnancy because she was being treated for cancer. The defendant presented information to her obstetrician that she was suffering from stage IV sarcoma and that she was scheduled to immediately resume treatment in Boston, Massachusetts which was to include the removal of tumors located in her abdomen and lower spinal area. In April 2010 the defendant's pregnancy was terminated at a hospital located in Phoenix. The gestational age of the fetus at the time of termination was 22 weeks and three days.



The costs associated with the pregnancy termination were paid for by the AHCCCS as she was a recipient at the time. AHCCCS only covers pregnancy terminations under limited circumstance, including if the life of the mother is endangered. After the pregnancy was terminated information was obtained indicating that the defendant falsified medical documents purporting that she had cancer. The physician that was listed by the defendant as the person treating her for cancer was contacted. That physician indicated that he never treated the defendant for cancer nor has he ever met the defendant.

This case was jointly investigated by the FBI and AHCCCS OIG. In addition, the defendant feigned having cancer in order to solicit donations on her behalf. The defendant assumed a false identity and then set up an online fundraiser to raise money for her alleged cancer treatment. The defendant through the false identity then asked others to administer the fundraising account on her behalf. Several individuals made donations in support of the defendant's alleged cancer treatment. During the trial several medical professionals testified that there was no evidence that the defendant ever had cancer. In April 2016, Zeitner was found guilty by a jury of committing various crimes including: Fraudulent Schemes and Artifices, Theft, Fraudulent Schemes and Practices, Taking the Identity of Another Person or Entity, Forgery and Attempted Theft. The defendant was sentenced to ten years in prison, a slightly aggravated term for a Category 2 Repetitive Offender. The defendant objected to restitution; therefore a Restitution Hearing has been set at a later date.

State v. Chalice Zeitner #2 - Chalice Zeitner was indicted again by the AGO relating to an investigation of Fraud Schemes and Theft when she perpetuated a fraud scheme on various charities to obtain money from these

charitable organizations whose mission was to aid United States Veterans. The charges in this second case arose out of a scheme. The defendant contacted these charities and identified herself as a former marine and lawyer from South Africa and further indicated that she wanted to assist the charities' missions and help United States Veterans. By using false statements and misrepresentations, the defendant stole approximately \$18,000 from a Phoenix based Veteran's Charity, Veteran's Tickets Foundation. The defendant used the \$18,000 to pay for personal expenses, including parenting classes. She also took and used the personal identifying information of the founder and CEO of another Veteran's charity to open American Express credit cards without his authorization, which were then used by Zeitner for personal expenses. In August 2016, Chalice Zeitner was found guilty by a jury to Fraudulent Schemes and Artifices, Theft and Taking the Identity of Another. The defendant was sentenced to the presumptive term of 15.75 years in prison for a Category 3 Repetitive Offender, which will run consecutive with her ten year prison sentence.

State v. Bernard & Monica Le-Uh: The Le-Uhs owned and operated Nicben African Caribbean Market in Glendale where they committed fraudulent food stamp transactions up to the sum of \$2.1 million dollars during 2010 through 2015. The couple was charged with various counts including Conspiracy, Fraudulent Schemes and Artifices, Illegally Conducting an Enterprise, Money Laundering, Unlawful Use of Food Stamps and Computer Tampering. In April 2015, Bernard was sentenced to four years in prison followed by three years of probation, Monica was sentenced to two years of probation and restitution was postponed to be determined at a later date.



The United States Department of Agriculture (USDA) procured undercover buys totaling approximately \$3,000. In July 2016, during the two-day Restitution Hearing, the defense argued that restitution should be limited to the amount of the undercover buys because there was no proof of how much fraud was involved in the other sales.



Evidence was presented as to the store's inventory count taken by DES during the search warrant, which demonstrated the store did not have sufficient product on hand to make the sales it claimed. Testimony and evidence was also presented detailing the underlying data that comprised of the 300% calculation compared to the store's inventory. The USDA calculated the loss to be \$2.1 million dollars to the Supplemental Nutrition Assistance Program (SNAP), assuming that every sale over 300% of an average sale for a similar store was fraudulent. This was the first time that USDA's algorithm for calculating loss in stores that engaged in food stamp fraud had been the subject of a restitution hearing. The Court awarded restitution in the sum of \$2.1 million dollars to the USDA. According to the DES, the Le-Uh's case is the largest food-stamp fraud case in Arizona history.

State v. Mahin Khan - Mahin Khan is accused of plotting with a person whom he believed to be an ISIS operative to build and detonate a pipe bomb device at a Maricopa County Arizona Motor Vehicle Division Office. The operative was in fact an undercover FBI employee. Khan was arrested by the FBI and SIS Special Agents in July 2016 after a 16-month investigation into his terrorist activities. Khan was indicted



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and charged with three felony counts, including Terrorism, Conspiracy to Commit Terrorism and Conspiracy to Commit Misconduct Involving Explosives. If convicted of all the charges at trial, Khan faces a potential life sentence. The next hearing on this case is September 19, 2016 before Judge Myers of the Maricopa County Superior Court.

Health Care Fraud & Abuse Section

The Health Care Fraud & Abuse Section (HCFA), also known as the Arizona Medicaid Fraud Control Unit (MFCU), investigates and prosecutes health care fraud crimes that impact the State's Medicaid program known as the Arizona Healthcare Cost Containment System (AHCCCS). HCFA is also responsible for investigating allegations of patient abuse and neglect that take place within health care settings that receive AHCCCS funding. The type of criminal activity that the HCFA staff typically investigate and prosecute are cases that involve the falsification of medical records; the filing of false or inflated Medicaid billing claims; thefts and embezzlements from AHCCCS clients and health care institutions; the illegal diversion of prescription drugs by health care providers; and the physical, sexual and emotional abuse of residents being cared for in AHCCCS-funded facilities.

Overview of Accomplishments

The AGO's HCFA continues to be recognized as a national leader among the nation's other 49 Medicaid Fraud Control Units (MFCU). In April 2016, the Office of Inspector General for the United States Department of Health and Human Services released their Annual Report which reports that based on HCFA's staff size, Arizona had the second highest ranking of offenders being indicted among all 50 MFCU's.

HCFA continues to work collaboratively with federal law enforcement partners, including the Department of Health & Human Services Office of Inspector General (HHS-OIG), DEA and FBI. These collaborative efforts have been essential in combating the enormous problem of health care fraud related to prescription drug crimes.

HCFA personnel regularly attend meetings of the AGO's Taskforce Against Senior Abuse (TASA), Maricopa Elder Abuse Prevention Alliance (MEAPA), Fiduciary Abuse Specialist Team (FAST), Arizona Financial Exploitation Committee, International Association of Financial Crimes Investigators, Arizona State Elder Abuse Prevention Coalition, U.S. Attorney's Health Care Fraud Task Force, Yavapai County Partners Against Narcotic Trafficking (PANT), Yavapai County Elder Abuse Coalition, Coconino County Drug Task Force and Adult Protective Services/Area on Aging Response Team.

In FY16, HCFA received 156 allegations/complaints regarding fraud and patient abuse to include misuse of funds of the AHCCCS program, opening 84 new cases for a full investigation. Of those cases, 51 fraud cases and 33 patient abuse/financial exploitation cases were identified. Cumulatively, HCFA had 252 open cases and resolved 91 of them. During FY16, HCFA charged 44 defendants and sentenced 72 defendants. HCFA also obtained \$71,750 in court ordered fines and \$6,697,276 in restitution. Also during the fiscal year, HCFA worked with the National Association of Medicaid Fraud Control Units and the United States Department of Justice on national civil cases focused on Medicaid fraud. During this past year the effort brought about \$2,038,816 in recoveries to the Medicaid program in Arizona.

Major Cases:



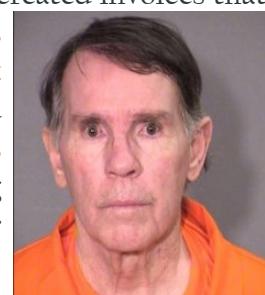
State v. Richard Waldrop et al - An investigation by SIS Special Agents and Scottsdale Police Department revealed that Dr. Richard Waldrop, a practicing Arizona Doctor of Osteopathy for more than 35 years, along with his career criminal co-defendant Deborah Simmons, controlled a 31-person prescription drug diversion ring that was responsible for the illegal distribution of more than 30,000 high-potency Oxycodone and Alprazolam pills. The illegally acquired controlled substances were ultimately distributed through illicit street drug sales. The proceeds of the drug sales were used in part to fund an aspiring rap music label that involved a number of the defendants including the co-defendants. A total of 31 defendants were charged and convicted for participating in a 14-month prescription drug diversion ring that Waldrop and co-defendant Simmons operated. In January 2016, Waldrop was ordered to serve two and a half years in state prison followed by four years of supervised probation. Waldrop and Simmons must pay restitution to AHCCCS to recover the State's cost for the fraudulent prescriptions they generated. Waldrop surrendered his state doctor's license. The other 29 defendants pled guilty to various drug charges and/or assisting a criminal syndicate, resulting in felony convictions and sentences for all defendants with a combined 13 years in prison.

State v. Stacie Lee Bernades - Stacie Bernades was employed as an unlicensed manager/caregiver at Desert Serenity Assisted Living Home in Tucson. During her employment, it was alleged that on two separate occasions she dispensed prescription medication to a patient without having a license or the training to do so. It was also alleged that the defendant had befriended one of the residents at Desert Serenity. She promised to take the resident fishing if he would give her \$40 to pay for the fishing license and fishing equipment needed for the trip. The promised excursion never took place and the resident was never reimbursed. In December 2014, after an investigation by SIS Special Agents, Bernades was charged with Fraudulent Schemes and Artifices, Fraud and Theft related felony offenses. In August 2015, the defendant pled guilty to Criminal Impersonation and was sentenced to nine months in jail, followed by three years of probation and ordered to pay \$5,048 in restitution and investigative costs.



State v. Michael Veit et al - HCFA received a referral from the AHCCCS OIG in August, 2015, that outlined the OIG's preliminary investigation into the suspicious practices of long-time AHCCCS Chief Procurement Officer Michael Veit. A criminal investigation was immediately opened by Special Agents in the SIS, which led to the

execution of several search warrants and the arrest of Veit and his friend Michael Cameron in September 2015. The investigation determined that Veit and his associate Cameron created a sham business in 2001 for the sole purpose of stealing taxpayers' money. In an effort to hide their crime, the co-conspirators used a business name similar to that of a legitimate state-approved vendor. The investigation found that Veit created invoices that made it appear that they were from a legitimate vendor that was owed money by AHCCCS. As the Chief Procurement Officer, Veit approved the bogus invoices, which resulted in checks being issued and deposited into the bank account that Cameron had set up using the sham business name. In September 2016, the defendants were indicted on 42 criminal charges, including Conspiracy, Fraudulent Schemes and Artifices, Aggravated Taking Identity of Another Entity, Theft, Money Laundering and Trafficking in Stolen Property.



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Between March 2006 and August 2015, Veit funneled \$5,909,404.58 of AHCCCS funds into the sham business bank account controlled by Cameron. Funds were then withdrawn and used to benefit Veit, his family members and Cameron. None of the money deposited into the account was used for the benefit of the AHCCCS program or Arizona taxpayers. In May 2016, Veit pled guilty to Theft and Fraudulent Schemes and Artifices and was sentenced to ten years in prison. Cameron also pled guilty to Theft and Fraudulent Schemes and Artifices and was sentenced to 6.5 years of prison for his role in the fraudulent scheme. Additionally, the court ordered the defendants to pay full restitution to AHCCCS.

State v. Edward Sayegh et al - This investigation was led by SIS Special Agents and DEA. Also contributing significantly to the investigation were personnel from the HHS-OIG, AHCCCS OIG, Phoenix Police Department, Arizona Pharmacy Board and Arizona Medical Board. The investigation



uncovered massive Medicaid and Medicare fraud taking place under the direction of Dr. Edward Sayegh. A review of Medicaid billings by the AHCCCS OIG concluded that virtually every medical claim submitted by Sayegh's practice was deficient due to lack of adequate patient medical records as well as systematic up-coding. In addition, to fraud, The defendant was engaging in illegal drug activity which included prescribing addictive pain medicine absent a medical need and trading prescriptions with "patients" in exchange for a portion of their pills and access to street drugs, such as marijuana and cocaine. It is estimated that for several years Sayegh's practice was responsible for inappropriate prescriptions amounting to 225,000 tablets per year of Oxycodone, Hydrocodone, Xanax and Amphetamine Salts with a street value of \$5 million dollars annually. Sayegh pled guilty to six felonies, including Fraudulent Schemes and Artifices and Administration of a Dangerous Drug and was sentenced to four years in prison, followed by five years of probation. In addition, nine additional defendants were sentenced in the case.

State v. Brittany Elizabeth Simmers

CR2015-002563 - The Phoenix Police Department referred this case to HCFA prosecutors and SIS Special Agents relating to Brittany Simmers. The detectives reported that between November 2014 and November 2015, Simmers presented as a patient to eight different health care providers with complaints of either mouth or sinus pain. The defendant advised health care providers that she was from Tucson and recently had a dental procedure. She would request pain medication to sustain her until she would be able to return home to Tucson. It was later determined that the information provided by the suspect was false. The suspect was able to obtain prescriptions for Hydrocodone, Oxycodone and Alprazolam utilizing this scheme. In December 2015, Simmers pled guilty to Attempted Burglary for additional drug diversion schemes she engaged in. She was sentenced in April 2016 to two years in prison and ordered to pay investigative costs of \$1,000.

CR2015-000124 - The Phoenix Police Department had previously submitted this referral to the HCFA after they had arrested Brittany Simmers in June 2014 for fraud



at a Phoenix pharmacy. The police alleged that Simmers had visited scores of health care providers in Phoenix in order to obtain prescriptions for prescription pain pills. In February 2015, Simmers was charged with various counts of Fraud and Prescription Drug Diversion related criminal offenses. Simmers pled guilty to Fraudulent Schemes and Artifices and was sentenced in April 2016. Simmers was sentenced with the court suspending the execution of sentence to the supervision of the Adult Probation Department, placing the defendant on probation for three years to begin once released from prison for the separate offense in CR2015-002563. Simmers was also ordered to pay \$1,328 in restitution, of which \$1,000 is to reimburse the AGO for investigative costs.

State v. Kathryn Louise Hess et al - In December 2015, five members of a theft ring were charged for crimes against the elderly in Oro Valley and Tucson. The joint investigation was undertaken by officers from the Tucson Police Department, Oro Valley Police Department and Special Agents from SIS. The central figure in the probe was Kathryn Hess who gained access to the victims through her employment with several Tucson area in-home care agencies. The investigation identified eight patient victims that Kathryn had come into contact with by being assigned to provide them with personal care in their homes. The investigation uncovered evidence that she stole patients' cash, jewelry, checks and bank cards. The co-defendants were all relatives or friends of Kathryn and they assisted in the crimes by cashing the stolen checks. It was also learned that both Kathryn and her sister, Teresa Hess, were involved in taking the patients' stolen jewelry to local pawn shops where they pawned the items. The total estimated loss to the victims was approximately \$52,000.



In December 2015, Kathryn Hess, Chevy Marchbank, Teresa Hess, Nicole Risner and Brittany Crowther were charged with various fraud and theft related offenses. In 2016, the defendants pled guilty to Theft/Financial Exploitation of a Vulnerable Adult and received the following sentences:

Kathryn Hess - Sentenced to 3.5 years in prison, ordered to pay \$52,411 in restitution to victims (jointly and severally with co-defendants Marchbank and Teresa Hess) and investigative costs of \$980.

Chevy Marchbank - Sentenced to 3.5 years in prison and ordered to pay restitution to victims as noted above and investigative costs of \$500.

Teresa Hess - Sentenced to three years of probation, ordered to pay victim restitution as noted above and investigative costs of \$3,320.

Nicole Risner - Sentenced to three years of probation, ordered to pay restitution of \$4,000 and investigative costs totaling \$2,272.

Brittany Crowther - Crowther has pled guilty and is pending sentencing.

Criminal Division

State v. Mohamed Shahin - HCFA was notified that an AHCCCS patient had died after being dropped off by a wheelchair van driver at a house where he no longer lived, on a day when temperatures reached over 100 degrees. SIS Special Agents' investigation developed information that the wheelchair bound 79 year old patient had been dropped off at his former home in Peoria -- instead of at the assisted living facility where he was a full time resident.



The incident took place in July 2015 and it is believed that the resident had been outside the home for ten hours when he was discovered dead at 11:00 pm. The information developed through the investigation was presented to the grand Jury in April 2016, charging Shahin, who was working as a non-emergency medical transportation driver, contracted through AHCCCS, with Manslaughter, Vulnerable Adult Abuse, Endangerment and Forgery. Prosecution is ongoing.

Office of Victim Services

The mission of the OVS is to promote and facilitate justice and healing for people affected by crime in Arizona. OVS provides a variety of services to victims in cases in which the State is represented by the AGO. In addition, OVS provides financial and technical support to state, county and municipal law enforcement, custodial, prosecutorial and correctional agencies and courts, both adult and juvenile, who have duties and responsibilities established by Arizona's victims' rights laws.

Overview of Accomplishments

OVS continues to provide services to victims of various crimes in cases prosecuted by the AGO as well as to victims in those cases on direct review or under capital appeal. In FY16, advocates provided over 24,000 mandated and over 84,000 non-mandated services to more than 9,000 victims.

The office also received and investigated 31 allegations of victims' rights violations statewide and audited 9 agencies who receive funding from the Victims' Rights Program. Grants from the Victims' Rights Program totaling \$3,228,300 were awarded to support 58 criminal justice agencies in the provision of mandated victims' rights. The Grants Management System (GMAN), has now been utilized for two complete fiscal years and has proven to be a valuable tool for not only OVS, but for our funded agencies as well; improving efficiency, data tracking and communication.

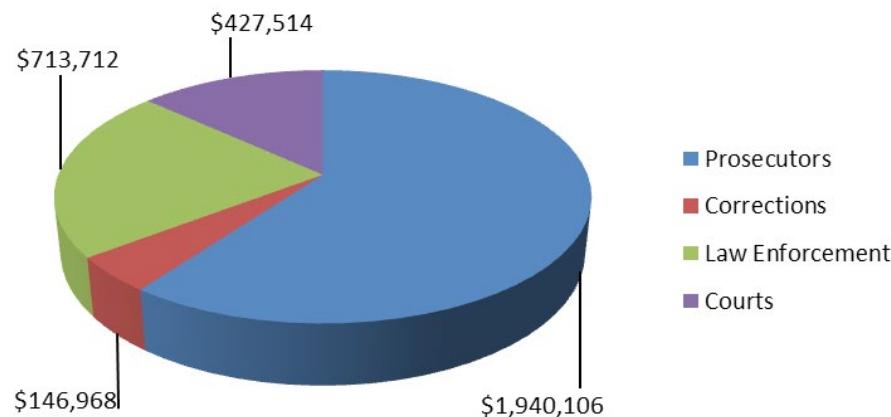
To assist agencies with implementing and providing victims' rights, the Victims' Rights Training program provided 72 victims' rights trainings to over 1,500 criminal justice professionals statewide. Eight of the separate training curriculums were revised to include new information and updates to legislation and other pertinent issues. OVS also continued to provide Victims' Rights training to all new Criminal Division new hires and interns (as well as new hires and interns in the Criminal Appeals/Capital Litigation Sections,; while also providing refresher training to all criminal attorneys on various issues for a total of 151 individuals trained.

A new development in FY16 was the increase in available federal grant funding for victim services (approximately \$30,000,000 in Arizona alone). OVS successfully applied for an increase in funding from the Victims of Crime Act (VOCA) Grant Program, allowing OVS to add a new Advocate Assistant position in the Phoenix office whose primary purpose is to assist the Victim Advocates with providing mandated and non-mandated services to victims of crime. Funding was also obtained to hire a second Victim Advocate for the Tucson Office, freeing the Advocate Program Manager to focus full time on grants administration and other duties. Additionally, VOCA funds were requested and awarded to hire a second State Victims' Rights Trainer. This additional trainer has been valuable

as more training will be required statewide, due to the increases in victim service programs and staff as a result of this new funding. This brings the total OVS staff from 12 to 15, the highest staffing level since the early 2000's and adds much needed manpower to assist the Criminal Division who has also increased in size and workload.

OVS continues to participate and serve as a statewide leader on victims' rights issues. One example of such activities was the recognition of National Crime Victims' Rights Week with a statewide event that was held on April 11, 2016. This event recognized individuals in Arizona who have made significant contributions to victims' rights and was planned and presented by a collaboration of six agencies: the AGO, Arizona Governor's Office, Maricopa County Attorney's Office, Department of Corrections, Department of Juvenile Corrections and Arizona Department of Public Safety. Attorney General Brnovich personally recognized four outstanding individuals and teams in front of approximately 330 attendees.

FY 2016 VRP Funding by Entity Type



AG Brnovich, OVS Staff, Division Chief
Paul Ahler and Assistant Division Chief
Zora Manjencich
2016 Victims' Rights Week Recognition Event
April 11, 2016

Criminal Division

Attorney General Brnovich presented the following awards to this year's recipients during National Crime Victims' Rights Week:



Verde Valley Sanctuary
2016 Distinguished Service Award - Advocacy/Direct Services



Cochise County Domestic Violence Fatality Review Team (DVVRT)
2016 Distinguished Service Award - Service Coordination



Rebeca E. Begay, Victim Services, City of Mesa Prosecutor's Office
2016 Distinguished Service Award - Innovative Practices



Pastor Brian Steele, Phoenix Dream Center
2016 Distinguished Service Award - Leadership

Major Cases

Victim Advocates worked closely with the prosecutors and victims in the successfully prosecuted cases outlined previously by other Sections in this report.

State v. Jonathan Alan Smith - This case is notable in that out of the four victims in this case, two are brothers, who are also vulnerable adults with cerebral palsy. Brother J. is legally deaf and uses a CapTel phone to communicate and the Brother F. is intellectually disabled and has cancer. The defendant misrepresented himself as an attorney

to gain Power of Attorney (POA) over the brothers before moving \$39,000 from a trust (essentially all of their assets) into his own bank account. As the brothers are unable to work this has been an enormous hardship for them. Additionally, because of their disabilities and lack of resources, they have required a high level of legal and personal advocacy throughout the case. Even with these challenges, they have been very involved in the case and one of them attends every hearing.

It has been Brother J.'s intent to gain guardianship/POA of Brother F.; however, due to the financial strain the theft has caused, the cost of an attorney is not feasible for the brothers to pay. An additional hardship that arose during the course of this case was that Brother F.'s cancer metastasized and he was in need of immediate chemotherapy. Although his insurance approved the treatment course, they would not start it until Brother J. obtained POA for Brother F., as they are each other's only living family members. This caused further emotional strain to the victims who were already struggling with multiple challenges.

In an effort to assist them, the advocate contacted the Arizona Crime Victims Law Group, who immediately volunteered to offer help to the brothers in probate court if the Court would not appoint someone else. The advocate spoke with the prosecutor handling the case about petitioning the court for a POA appointment for Brother F. and the prosecutor did so at the Change of Plea Hearing. Although it is typically outside of a criminal court's jurisdiction, the Judge recognized that this was a serious issue in a case involving vulnerable adults, included an endorsement to the probate court and ordered Adult Protective Services to take the steps necessary to effectuate roles. The Victim Advocate maintains contact with the Arizona Crime Victims Law Group and, if further action is needed, they are willing to petition probate court on the victims' behalf.

Special Investigations Section

Overview of Accomplishments

In FY16, SIS opened 565 cases. SIS Major Fraud units devoted resources to advance public corruption cases this year. Special Agents supporting the Fraud and Special Prosecutions Section, Financial Remedies Section, Health Care Fraud and Abuse Section, Consumer Fraud Section and Border Crimes Enforcement Section were successful in meeting unprecedented investigative demands.



AGO initiatives continue to target the dismantling of the financial structures of drug trafficking organizations and continue to result in record-setting increases in asset forfeitures. Statistics also indicate calls for assistance from the public and other law enforcement agencies remain at high levels.

Law Enforcement Assists	725
TRAC Financial Inquiries	980
Duty Agent Contacts	1800

Criminal Division

Major Cases

Many of the successfully prosecuted cases outlined previously by other Sections in this report were also investigated by Special Agents assigned to SIS.

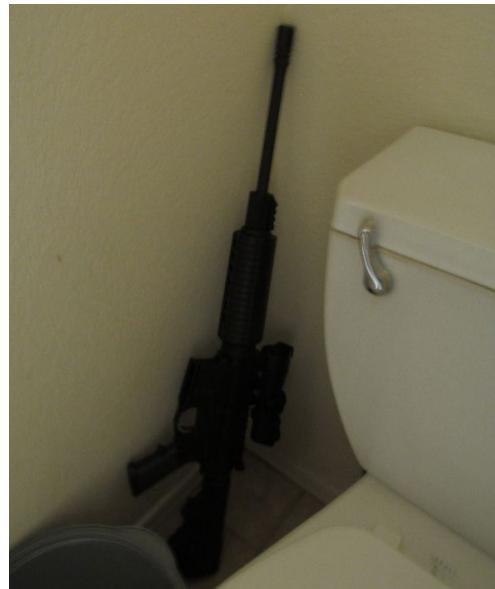
Arizona Financial Crimes Task Force (AFCTF)

Tufesa Bus Depot Marijuana Seizures - In July 2016, AFCTF investigators received information that DTOs in Southern Arizona were using the ethnic bus line operation, Tufesa, to transport marijuana from Southern Arizona into Phoenix. The suspects transported the marijuana in suitcases as they appeared to be travelers. As a result of this information, police seized 102 pounds of marijuana, arrested one suspect and identified a second subject, both of whom were of Jamaican decent. The investigation of both subjects is pending prosecutorial review by the Drug & Racketeering Enforcement Section.



Poly-Drug Trafficking and Money Laundering

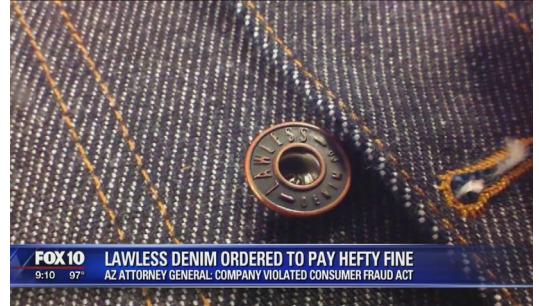
In May 2015, AFCTF investigators initiated a year-long investigation into the money laundering and drug trafficking activities of an international DTO supplying heroin, methamphetamine, cocaine and marijuana from Mexico into the Metropolitan Phoenix area. Within hours of receipt, the drugs are then transported to Southern California and Las Vegas, then moved to demand cities in the Midwest and East Coast. Once the illegal drug proceeds are earned, the cash is funneled back to the suspects by using several bank accounts and then carried in bulk across the border into Mexico. AFCTF investigators served thirteen search warrants and seized approximately \$750,000 cash, over three pounds of heroin, seven pounds of methamphetamine, over seventeen pounds of cocaine, 3,000 pounds of marijuana, six vehicles, three handguns and two assault rifles. Thirteen suspects were arrested, for which the prosecution is ongoing.



Criminal Division

Consumer Fraud Unit

Lawless Denim & Co, LLC - Obtained a consent judgment with former Phoenix clothing retailer after consumers claimed the company owner, James Roman Acevedo, accepted payment for custom-made jeans but failed to deliver the pre-ordered jeans. The company also misrepresented when order merchandise would be available and failed to provide promised refunds. Per the consent judgment, Lawless Denim will provide up to \$20,000 in refunds to customers who did not receive their merchandise. Additional civil penalties imposed will be suspended if Acevedo makes timely restitution payments



Discount Auto Sales LLC - Obtained a consent judgment against this used car dealer. From April 2012 to August 2014, Discount Auto Sales purchased vehicles at out-of-state auto auctions which had been previously wrecked and/or declared totaled by the selling insurance company. Due to loopholes in other states' vehicle branding laws, these vehicles were not branded as "salvaged" or "inoperable". Discount Auto Sales would perform substantial repairs on these vehicles and then offer the vehicles for sale in Arizona without telling the public about the vehicles' adverse histories. Discount Auto Sales and its owner, Eivan Shahara, agreed to pay the State at least \$125,000 in restitution and penalties.

Allstar Movers and Storage, Inc. - Obtained a consent judgment against this moving company and its owner, Amru Abdalla. In its consumer fraud lawsuit, the State alleged the Defendants repeatedly violated the Arizona Consumer Fraud Act and a 2010 consent judgment, which the company entered into to resolve a prior lawsuit with the Attorney General's Office. The lawsuit alleges the moving company continued its deceptive practices by quoting prices to consumer over the telephone and then routinely adding significant undisclosed charges to consumers' invoices. When consumers refused to pay the undisclosed charges, the movers allegedly refused to unload consumer's property from the moving trucks and threatened to hold consumer's property hostage until they received payment. The consent judgment requires payment of up to \$230,000 in restitution, penalties, and previous balance due under the previous consent judgment. If Amru Abdalla complies with all of the terms in the judgment, the State will release its claim to \$50,000 of the civil penalties and the interest owned on the 2010 consent judgment. The judgment also prohibits the principals, Amru Abdalla and Emad Abdalla, from engaging in the moving, packing and/or storage business for two years.



GBY Transmissions - Obtained a consent judgment against an auto transmission repair shop for \$50,000. Transmission repair shop owner Gerardo Figueroa Haros and manager Gerardo Figueroa Salinas admitted to charging customers for auto repairs they didn't need. During an undercover AGO sting operation, an automotive repair expert disconnected the vehicles' transaxle/harness connector, which could easily be reconnected at a minimal cost of approximately \$40 to \$100. Instead of making the appropriate repairs, defendants claimed that the undercover vehicle needed a complete transmission rebuild and charged the State \$1,010 for installing unnecessary parts, for making unnecessary repairs to the vehicle and for parts never replaced. In addition, defendants admitted they quoted unrealistically low estimates to consumer for transmission rebuilds. After disassembling a transmission, defendants typically notified consumers of the actual cost of the repair work, which was significantly more expensive than the initial estimate defendants provided.



Uncle Joe's Auto Sales / Front Line Auto Auction, LLC - Obtained a consent judgment totaling \$435,000 against this used car dealer and its principals, Joseph and Gina Colombo. The Attorney General's Office received more than 30 consumer complaints about Uncle Joe's, even though the business was only open for approximately eight months. In the consent judgment, the defendants admitted to engaging in numerous false, misleading, unfair and deceptive acts and practices involving the sale of motor vehicles. The consent judgment includes \$360,000 in civil penalties, of which \$335,000 will be waived if the defendants make their payments on time and comply with all of the terms of the consent judgment. The consent judgment also bans Uncle Joe's and the Colombo's from owning, operating, or managing a motor vehicle sales or finance business in Arizona.

Prieto's Auto Sales, Inc. - Gustavo Prieto and Prieto's Auto Sales, Inc. entered into a settlement agreement that would ban the used car dealership from selling or financing cars in Arizona. The used car dealership and its owner conceded to the ban after the Attorney General filed a contempt action against them for their recurrent violations of court orders and the Arizona Consumer Fraud Act. In the Stipulated Addendum to Consent Judgment, the defendants admitted to selling vehicles without conveying title and without clear title; failing to adequately inspect vehicles and repair major defects before placing vehicles for sale; failing to honor statutorily mandated warranties; selling vehicles with salvage titles without disclosing title defects; refusing to timely return refundable deposits, knowingly issuing consumers refund checks drawn on accounts with insufficient funds, altering contracts signed by consumers without first obtaining consumer's informed consent; and denying consumers an opportunity to test drive vehicles. The Addendum also requires defendants to pay over \$139,000 to the State and for consumer restitution. If defendants fail to comply with injunctive terms of the consent judgment they could be subject to an additional \$500,000 civil penalty.



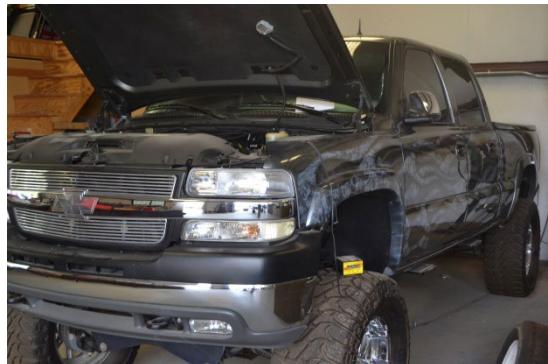
ABC 15 Arizona news broadcast showing a headline about complaints against Prieto's Auto Sales. The headline reads: "LET JOE KNOW COMPLAINTS CONTINUE AGAINST PRIETO'S AUTO SALES DEALER ACCUSED OF SELLING PROBLEM CARS AGAIN". The broadcast also shows the time as 6:16 and the temperature as 87°.

opportunity to test drive vehicles. The Addendum also requires defendants to pay over \$139,000 to the State and for consumer restitution. If defendants fail to comply with injunctive terms of the consent judgment they could be subject to an additional \$500,000 civil penalty.

Criminal Division

Financial Remedies Unit

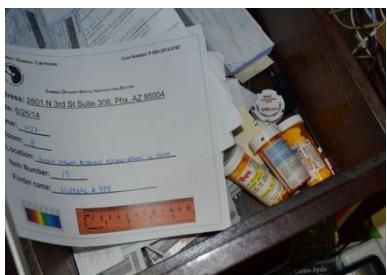
Investigation of Michael Veit et al - As reported above in the FRS and HCFA Sections, SIS-FRU also worked collaboratively on this case. During the time of Veit's employment, he funneled \$5,909,404 of AHCCCS funds into a fake business bank account. Money was then withdrawn from the account and used to benefit the defendant, family members and business partner. The Financial Remedies Section assisted the HCFA by obtaining a court-authorized Seizure Warrant that established this organization's illegal activity generated \$1,512,179 in proceeds. Many items were seized for forfeiture as well, including classic cars, jewelry, recreational vehicles, etc.



Healthcare Fraud & Abuse Unit

Investigation of Edward Sayegh, MD et al - As reported in the HCFA Section above, this multi-agency investigation uncovered massive Medicaid and Medicare fraud taking place under the direction of Phoenix Medical Doctor Edward Sayegh. HCFA Special Agents served six search warrants and seized approximately \$432,000 cash.

Ten suspects were arrested on charges of The suspect was also engaged in illegal drug activities which included prescribing addictive pain medicine absent a medical need and trading prescriptions with "patients" in exchange for a portion of their pills and access to street drugs, such as marijuana and cocaine. Sayegh was convicted and sentenced to four years in prison, followed by five years of probation. In addition, the Arizona Board of Medical Examiners revoked his license to be a doctor. Nine other suspects were also convicted of crimes related to this case. In addition, Sayegh is responsible for approximately 225,000 tablets of Oxycodone, Hydrocodone, Xanax and amphetamine salts ending up on the street unlawfully with a street value of approximately \$5 million dollars.

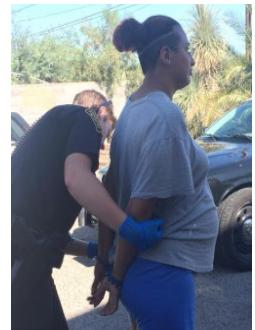


Investigation of Donja Lindsey - Donja Lindsey was an in-home caregiver who was paid with State money to provide 21 hours of personal care to her elderly mother each week. An audit by the in-home care company determined that Lindsey had continued to bill for services after her mother's death in October 2014. The in-home care company had discovered that Lindsey submitted paperwork for 54 hours of personal care service during the weeks following her mother's death.

In August 2015 after a thorough investigation by HCFA Special Agents, the defendant was charged with Fraudulent Schemes and Artifices, Taking the Identity of Another Person and Forgery. In December 2015, Lindsey pled guilty to Fraudulent Schemes and Artifices and Criminal Impersonation and was sentenced to one year in prison, followed by four years of supervised probation and ordered to pay \$2,419 in restitution and investigative costs.



Investigation of Marcus Brent & Griselda Jennifer Railey - Investigators from the Tucson Police Department and HCFA Special Agents received information that Griselda Railey, along with her boyfriend Marcus Brent began to financially exploit a Tucson patient suffering from dementia for which Railey was hired as the caregiver. The investigation found that Railey had convinced the victim to purchase a 2014 KIA automobile in her name, which shortly thereafter, she titled the vehicle in the name of her boyfriend, Brent. Brent then proceeded to obtain a title loan on the vehicle which he failed to make the required payments for, which then resulted in the vehicle being repossessed. The investigation developed information indicating that the defendants received checks, money and other items totaling \$64,079 from the victim for personal gain. The defendants were charged with Fraudulent Schemes and Artifices and Theft/Financial Exploitation of a Vulnerable Adult. Railey pled guilty in October 2015 to Theft/Financial Exploitation of a Vulnerable Adult and was sentenced to three years of probation and ordered to pay full victim restitution (joint and several with co-defendant Brent) and \$500 in investigative costs. Brent pled guilty to Theft/Financial Exploitation of a Vulnerable Adult and was sentenced to five years prison and ordered to pay full victim restitution as noted above.



Investigation of Kenneth Duistermars - The Arizona Department of Health Services notified the AGO that they had received a report in which it is alleged that a Certified Nursing Assistant (CNA) working at a nursing home in Show Low had obtained \$6,000 from one of the patients being cared for at the home. SIS Special Agent's investigation determined that CNA Kenneth Duistermars, did not have the patient's permission to write out a check to himself in the amount of \$6,000. Duistermars was charged with Theft and Forgery. In August 2015, the defendant pled to an amended charge of Criminal Impersonation, was sentenced to three years' probation, and ordered to pay full restitution.

Major Fraud 1

State v. Sergio Solorzano - Sergio Solorzano was a former employee at the Phoenix Rescue Mission (PRM). The Phoenix Rescue Mission is a place of hope, healing and new beginnings for men, women and children in the community who are struggling with homelessness, addiction and trauma. As a PRM employee, Solorzano had access to all the personal information of the residents, including dates of birth and social security numbers. SIS Special Agents determined that from January 2013 to October 2015, the defendant stole and used three victims debit cards that contained their Social Security benefits. One of the debit cards belonged to Jack Fritts, a 69 year old homeless man for which Solorzano made withdrawals once a month, every month, for approximately

PHOENIX RESCUE MISSION
Transforming Lives. Transforming Our City.

Criminal Division

three years at ATMs in Tolleson and Avondale. Solorzano was charged with Fraudulent Schemes and Artifices, Theft, Taking the Identity of Another and Unlawful Use of an Access Device. The indictment alleged the defendant stole \$24,499.40 of Social Security benefits from Fritts. The defendant pled guilty to attempted Fraudulent Schemes and Artifices, Theft and Taking the Identity of Another. In August, 2016, he was sentenced to 3.5 years in prison and ordered to pay restitution in the sum of \$61,286.

Major Fraud 2 (MF2)

Investigation of Steffan and Jennifer Burris: From 2011 to July 2016, Steffan Burris allegedly obtained money from multiple victims by pretending he had access to hundreds of millions of dollars. The total victim losses far exceed \$650,000.00. Steffan would tell victims he made a fortune in real estate investing or that he had access to huge sums of money from an inheritance.



He would allegedly solicit the victims to join in fictitious business ventures. His wife, Jennifer Burris allegedly signed documents and met with victims during some of the solicitations for investments. In July 2016, Special Agents and the FBI

arrested both Steffan and Jennifer Burris at their home. Steffan was charged with Fraudulent Schemes and Artifices and various of Theft. Jennifer was charged with Theft. Prosecution is ongoing.



Investigation of Melissa Coe - SIS Special Agents determined that Melissa Coe was engaged in two different fraudulent real estate schemes by taking victims' money to help them purchase homes or obtain mortgage loan modifications, falsely representing herself as a real estate agent or lawyer in some of the transactions; and soliciting victims to invest in her real estate company she claimed purchased foreclosed homes at an auction to flip. Coe took all the victims' money and used it to pay for her own personal expenses or to pay back other victims in a pyramid-like scheme. In one instance, Coe used a victim's check to make a down payment on her own personal residence. The victims' money was never used to purchase homes or obtain loan modifications. Also, Coe never operated a real estate investment company that purchased foreclosed homes at auction. Coe pled guilty to Fraudulent Schemes and Artifices, Attempted Fraudulent Schemes and Artifices, Forgery and Theft and was sentenced to four years in prison, followed by five years of probation with white collar terms and ordered to pay more than \$450,000 in restitution to the victims.

Investigation of Diane Maxine Richards - SIS Special Agents and HSI working with the Internal Revenue Service Criminal Investigations (IRS-CI) Task Force proactively uncovered a long-term fraud by a public official at the City of Kingman. The investigation revealed that from September 2008 to November 2015, Diane Maxine Richards misappropriated about \$991,727 of public funds, through a bank account used by the City of Kingman to fund its Employee Benefits Trust. Richards allegedly misused her position as Security Manager on the account

to alter the access settings and granted herself sole authority to both initiate and approve transactions. Richards also reportedly transferred money out of the account to pay her personal expenses. A large portion of the money was used to allegedly cover cash advances taken out on Richards' credit cards at casinos in Laughlin, Nevada. This conduct continued until Richards was terminated in November 2015 following the execution of search warrants at her home and Kingman City Hall. Richards is accused of misappropriating \$991,727.74 from the Employee Benefits Trust account. In January 2016, Richards was arrested after being indicted on 23 felony counts including Theft, Forgery and Misuse of Public Funds. Prosecution is ongoing.

Tucson Unit

Investigation of Wayne Lynn Shelton - The SIS Special Agents determined that Wayne Shelton, over the course of 11 months, stole from the account belonging to the 67 year-old vulnerable adult victim suffering from early onset dementia. Shelton stole the last of the victim's savings, as well as the \$1,400 a month she received from Social Security, after inviting her to live at his home to care for her. After Shelton went through her money, he dropped her off at an assisted care facility with no form of identification, no additional clothing, no medication and no money. The day that Shelton dropped off the victim, she had \$3.00 left in her bank account. When the victim's Social Security was deposited a few days later, defendant took that money as well. Shelton was convicted of Unlawful Use of Power of Attorney and sentenced to 2.5 years in prison and ordered to pay \$5,941 in restitution to the victim.

Investigation of Keith Gary Larson - SIS Special Agents determined that Larson, a financial advisor, over a period of five years stole almost a quarter million dollars from his two victims. Both victims are octogenarians who grew up in a different era and whose husbands always had handled household finances. When their spouses passed away, both victims turned to the defendant, their husbands' certified financial advisor and investment manager, for assistance. Larson then used his fiduciary position to profit from the elderly victims who entrusted him with their finances. Both victims lived long enough to know of his betrayal, but passed away before he could be brought to justice. Larson was convicted of Attempted Fraudulent Schemes and Artifices and sentenced to seven years in prison. A restitution order is pending.



State Government Division



MISSION:

A dynamic legal team representing Arizona with integrity, dedication and innovation.

Director Dawn Northup

Division Summary

The State Government Division consists of eight sections: Agency Counsel, Education and Health, Employment Law, Liability Management, Licensing and Enforcement, Natural Resources, Tax, and Transportation. The Division also has a Senior Litigation Counsel that handles complex litigation through the Division and office. The sections handle a wide variety of legal matters on various topics and provide client advice, legal representation and litigation support in administrative, civil and appellate issues.

Agency Counsel Section

The Agency Counsel Section (ACS) is responsible for providing legal advice and litigation support, for approximately 100 state entities. ACS clients range from Department of Administration, Department of Corrections and the Courts, to the State Board of Equalization, Housing, Commission on Indian Affairs, the Arizona Radiation Regulatory Agency, and Board of Executive Clemency.

ACS deals with a very broad range of issues, and the nature of the Section's work is ever changing. To the extent ACS has any particular areas of expertise, it would be in the areas of contracting/procurement, probation, issues of parole, public records under both Title 39 of the statutes and Supreme Court Rule 123, retirement related questions and to a certain extent, government finance.

Overview of Accomplishments

Procurement Protests

We successfully assisted our client agencies in preparing procurement officer decisions in major protests that were effective in ending the protests without further proceedings. Examples include the Department of Corrections protest of its contract for psychological evaluation of corrections officer candidates; Department of Child Safety protests of its contract award for home assessments and courtesy supervision; Department of Administration protests of its contract award for tenant representation (broker) services; and the Arizona Lottery advertising contract.

State Government Division

Contract matters

We assisted our clients in major and unusual contract matters. For example, we assisted the Governor's Office and the Department of Corrections in achieving the termination of a defaulting Kingman private prison contractor and assignment of the private prison contract to a new operator in a very short time frame and without any unnecessary disruption of prison operations or the complex financing provisions for the prison. We assisted the Office of Administrative Hearings in modernizing and streamlining its forms of interagency services agreements and agreements with non-state entities for administrative law judge services.

Bankruptcy matters

By adding a bankruptcy practitioner to the Agency Counsel Section, the State has successfully avoided sanctions for alleged violations of the bankruptcy automatic stay. In a different case, the bankruptcy court affirmed a consumer fraud judgment obtained in state court, denying requested sanctions based upon the full faith and credit clause. In yet another action, fraudulent conveyance claims against the State were dismissed pursuant to the sovereign immunity doctrine. Additionally, the State has established a presence with the National Association of Attorneys General in multi-state fraudulent conveyance litigation involving 23 states.

Major Case Highlights

American Civil Liberties Union v. Arizona Department of Corrections - Maricopa Superior Court No. CV2013-013531 is a public records case. The ACLU brought it to force disclosure of the ADC's execution drug supplier and associated information. On February 2, 2016, we obtained summary judgment upholding the ADC's determination that such information is made confidential by statute. The ACLU has appealed.

Haritos v. Arizona Attorney General's Office - Maricopa Superior Court Case No. CV2015-013498 is a public records case challenging the AG's response to a public records request. On July 12, 2016, following an expedited evidentiary hearing, the superior court approved the AG's actions in full, denied any relief to plaintiff and dismissed the case.

Wolfson v. Concannon - U.S. Court of Appeals for the Ninth Circuit No. 11-17634 is federal litigation challenging portions of the Arizona Code of Judicial Conduct. The case was originally filed in 2008. On January 27, 2016, the court entered judgment in our favor following rehearing en banc. Wolfson's petition for certiorari is pending.

Tohono O'odham Nation v. Ducey, Brnovich and Bergin in their official capacities - AZ District Court, is the case involving the west valley casino. The Tohono O'odham tribe sued Arizona Governor, Attorney General, and Director of Gaming to require the Arizona Department of Gaming to authorize the casino built in Glendale for class three gaming.

Enos v. State of Arizona, (D. Ariz. No. CV-16-00384-JJT) - Several hearing impaired individuals and the National Association for the Deaf filed a lawsuit making claims under the ADA and the Rehabilitation Act concerning deaf and hard of hearing individuals' lack of effective access to 9-1-1 services. The defendants are the state, several Department of Administration employees, the Maricopa Association of Governments, several Maricopa County officials and employees, the City of Surprise and some of its employees. The crux of plaintiffs' claims is that the failure of defendants to provide text-to-9-1-1 access violates the ADA and Rehab Act.

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Peterson v. Arizona Corporation Commission (LC2015-000453) - The Checks & Balances Project, a “watchdog” group favoring clean energy filed a lawsuit under the Arizona Public Records Law for access to text messages sent or received between Arizona Corporation Commissioner Bob Stump and 18 individuals. The Corporation Commission had been in the process of retrieving deleted messages from the phone when the AG’s office took custody of the phone as part of investigations into potential violations of campaign laws. After an in camera review of the responsive records the Court agreed none of the records were responsive, denied Plaintiff’s request to permit his expert to examine the phone and entered judgment in favor of the State defendant.

State of Arizona v. San Carlos Irrigation and Drainage District (SCIDD) TX 2016-000376 - SCIDD is attempting to assess taxes to cover maintenance and repair costs against State sale/leaseback land. SCIDD threatened to shut off irrigation water to the AZ Dept. of Corrections farms.

Significant Matters

ACS assisted an Arizona Legislature working group to develop legislation and an associated constitutional amendment to protect the financial viability of the Public Safety Personnel Retirement System.

Responded to requests on 37 Industrial Development Bonds, totaling \$1,973,600,000.00 for a review of whether each project met the requirements of the statutory definition of the project.

ACS attorneys reviewed and approved as to authority and form personal and real property leases with an aggregate value of more than \$47,000,000.00.

Education & Health Section

The Education & Health Section (EHS) is comprised of a Health Unit and an Education Unit. The Health Unit represents the Arizona Department of Health Services (ADHS), including the Arizona State Hospital, the Division of Behavioral Health Services (for FY16), the Divisions of Public Health Services-Licensing, Prevention, and Preparedness. The Health Unit also represents the Arizona Commission for the Deaf and Hard of Hearing. The Education Unit represents the Arizona Department of Education, the Superintendent of Public Instruction, the Arizona State Board of Education, the Arizona Schools for the Deaf and the Blind, the Commission for Postsecondary Education, the State Board for Charter Schools, the School Facilities Board, and the Professional Practices Advisory Committee.

Major Accomplishments

The Health Unit assisted the ADHS in successfully transitioning the Division of Behavioral Health Services to Arizona Health Care Cost Containment System (AHCCCS) as required by changes in Arizona law.

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Health Unit Major Case Highlights

Abortion Cases

Planned Parenthood of Arizona, et al v. William Humble (Federal Case) - A lawsuit was filed for declaratory judgment and injunctive relief in the Federal District Court on March 4, 2014, seeking to enjoin new medication abortion requirements for abortion clinics. These new laws (A.R.S. § 36-449.03(E)(6) and A.A.C. R9-10-1508(G)) required abortion clinics to follow the FDA protocol if they perform medication abortions. Planned Parenthood moved for a temporary restraining order and/or a preliminary injunction; after briefing and argument, the Federal District Court denied Planned Parenthood's motion. Planned Parenthood then filed an interlocutory appeal in the Ninth Circuit; the Ninth Circuit reversed the District Court and granted Planned Parenthood's request for a preliminary injunction. After the case was remanded for further proceedings, the parties subsequently agreed to a stay in the Federal District Court pending the outcome of a related state court case. Because of recent changes to the FDA protocol for medication abortions, Senate Bill 1112 (SB1112) was passed in 2016. That bill eliminated the requirement that abortion clinics follow the current FDA protocol for medication abortions. Due to the passage of SB1112, we anticipate that the lawsuit will be dismissed in the near future.

Planned Parenthood of Arizona, et al v. William Humble (State Case) - Planned Parenthood and others filed a complaint for declaratory judgment and injunctive relief in the Maricopa County Superior Court on April 7, 2014. In this lawsuit, Planned Parenthood again challenged the new medication abortion law changes in A.R.S. § 36-449.03(E)(6) and A.A.C. R9-10-1508(G) under new legal theories not raised in the federal case discussed above. After dispositive motions were filed by both parties, the court ruled in favor of the State as to most of the causes of action. However, the court ruled that the Legislature's open-ended reliance on the FDA protocol was unconstitutional and struck down the relevant laws. Although the State appealed that ruling, SB1112 was subsequently passed and eliminated that requirement, so the appeal will be dismissed.

Planned Parenthood of Arizona, et al., v. AG Brnovich, Dr. Christ, Medical Boards - On June 4, 2015, Plaintiffs—abortion clinics and physicians who perform abortions—sued the Attorney General, the ADHS director, and various medical board members and executive directors, in federal district court to enjoin implementation of portions of Senate Bill 1318 ("S.B. 1318"). The Plaintiffs challenged portions of SB 1318 as unconstitutional. Specifically, they challenged the new informed consent disclosure requirements whereby abortion providers must notify their patients that it may be possible to reverse the effects of a medication abortion, and the requirement that ADHS must add content to its website regarding a possible reversal of the medication abortion process. The Plaintiffs also sought a preliminary and permanent injunction against the implementation of the law. Due to the unavailability of the State's key witnesses for the hearing initially set by the Court, the parties stipulated to a stay of the implementation of the law pending a full evidentiary hearing on the merits. After the parties engaged in the first round of discovery, SB1112 was passed and eliminated the requirement that abortion providers must advise patients about the possibility that a medication abortion could be reversed, and eliminated the requirement that ADHS put that information on its website. This will lead to a future dismissal of this lawsuit.

Ambulance Certificate of Necessity (CON) Cases - A multiple week evidentiary hearing was held on the Maricopa Ambulance dba Priority Ambulance CON application.

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Sexually Violent Person (SVP) Cases

Randy Layton, Court of Appeals, Div. I; No.1 CA-MH 16-0005 SP; Mohave County Superior Court No. CV-2010-00859- Mr. Layton petitioned for an annual hearing in Mohave County pursuant to the Sexually Violent Persons Act (SVPA), seeking absolute discharge from the ADHS facility. After the evidentiary hearing, the Court ruled that Mr. Layton should be discharged. The Court's order, however, was highly unusual and held the State to plainly inaccurate burdens of proof, considered issues not properly before the Court in an annual hearing, and assigned blame to the ADHS (a non-party) based on an erroneous allegation that the ADHS had allegedly failed to provide records related to Mr. Layton's treatment. The ADHS intervened and, along with the Mohave County Attorney's Office, asked for reconsideration. The Court denied this motion. The ADHS and the County Attorney's Office then requested a stay of the order pending appeal to the Court of Appeals. The Court granted a stay. The ADHS and County Attorney's Office filed a joint appeal, and such appeal is pending before the Arizona Court of Appeals, Div. I.

Mental Health Cases

B.K. v McKay, et al. CV-15-00185-PHX-ROS - On February 3, 2015, a federal civil rights class action lawsuit was brought on behalf of children in the Arizona state foster care system, naming as Defendants the directors of the Department of Child Safety ("DCS") and ADHS. The ADHS Director was included in the lawsuit because ADHS provided mental health screening and treatment for foster kids through its Division of Behavioral Health. An Amended Complaint was filed in April, adding the director of the Arizona Health Care Cost Containment System ("AHCCCS"). Since the Division of Behavioral Health has been transferred to AHCCCS, the Plaintiffs dismissed the ADHS Director from this lawsuit.

ASH Public Benefits Cases: *In re MH 2015-002490, No. 1 CA-MH 15-0107 & No. 1 CA-MH 16-0021 (Consolidated)*- In two separate criminal cases, the Maricopa County Superior Court found that each of the indicted individuals, both of whom are undocumented immigrants, were incompetent to stand trial and there was no substantial probability that they would regain competency within twenty-one months. As a result, pursuant to A.R.S. § 13-4517, they each underwent civil commitment proceedings pursuant to A.R.S. title 36, chapter 5 and were ordered into treatment at the Arizona State Hospital ("ASH"). ASH moved to intervene and for reconsideration in each case on the basis that treatment at ASH is a public benefit and therefore could not legally treat these individuals because they are undocumented. The superior court granted the motions to intervene, but denied the motions for reconsideration. ASH appealed each of the cases and the appeals were then consolidated. The issues on appeal are (1) whether treatment and services provided at ASH pursuant to a court order are considered state or federal public benefits, and (2) if so, whether all individuals, regardless of citizenship and legal status, eligible to receive such benefits. The appeal is currently stayed for the purpose of seeking and out-of-court resolution of the matter. If the stay is not continued, ASH's opening brief will be due on November 25, 2016.

Significant Matters

Emergency Medical Services and Trauma Systems Program - Any person or entity that wants to operate an ambulance service must be granted a CON. The Health Unit represented ADHS with respect to eleven (11) Ambulance Certificate of Necessity (CON) applications during FY16; only one application resulted in a multi-week evidentiary hearing. The Health Unit also represented the Program in two administrative enforcement

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actions to revoke licenses for Emergency Medical Technicians whose actions were determined to be a threat to the health and safety of Arizona residents. The Health Unit attorneys also provide general legal advice on a weekly basis to this program.

Women, Infants, and Children Program - In addition to providing general legal advice, the Health Unit represented the Women, Infants, and Children (WIC) Program at several informal settlement conferences and two administrative hearings regarding vendors' violations of the WIC Vendor Contract and United States Department of Agriculture (USDA) regulations.

Health Care Institutions Licensing - The Health Unit represented ADHS in ten (10) health care licensing matters involving long term care facilities, assisted living facilities, and medical facilities. ADHS was unable to resolve three of those cases; they ultimately went to multiple-day enforcement hearings at OAH. All three of those administrative hearings were upheld in judicial review at the Superior Court.

Health Care Licensing--Special Licensing (Midwives) - The Health Unit represented ADHS in seven (7) enforcement actions against licensed midwives. Five of those matters could not be settled and resulted in five separate enforcement hearings at OAH. All of those successful actions were appealed to the Superior Court, where four out of five were upheld.

Sexually Violent Persons - In addition to providing general legal advice regarding the ACPTC's responsibilities in managing the 94 individuals committed to the ACPTC, the Health Unit represented the ACPTC in multiple annual hearings in Superior Court (through which a Sexually Violent Person seeks placement in either the less restrictive alternative program and/or absolute discharge from the ACPTC), attempted special actions, recurring orders where the Superior Court seeks to dictate a treatment level for a resident or addresses conditions of confinement during annual commitment proceedings, and attempts by opposing counsel to improperly expand the scope of discovery in annual civil commitment hearings. In addition, the Health Unit reviewed and filed annual reports for all 94 committed individuals in various Superior Courts throughout Arizona.

Medical Marijuana Program - The Health Unit provided daily advice to the ADHS Medical Marijuana Program on matters relating to qualifying patients, caregivers, and dispensaries, including advice on complying with criminal search warrants, record requests, and subpoenas for trial. The Health Unit also acts as liaison to outside counsel who represents ADHS in administrative hearings.

Behavioral Health Services - In addition to providing general legal advice, the Health Unit assisted in the transition of the Division of Behavioral Health Services to AHCCCS. Transition occurred on July 1, 2016.

Office of Vital Records - In addition to providing legal advice to the Office on a weekly basis, the Health Unit represented the Office in twenty (20) separate administrative matters. Of those matters, four (4) were successfully taken to administrative hearing to cancel delayed birth certificates that were procured through fraud or misrepresentation.

Public Health Emergency Preparedness - In addition to providing general legal advice, a Health Unit attorney also presented the following mini-seminars: 1) "Public Health Law for Declared Emergencies" to a class at Midwestern University; 2) "Legal Preparedness for Zika Virus: Law as a Tool to Protect Public Health" at Arizona's 2016 Zika

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Summit; and 3) “Legal Clarity for Vector Control (Plus Isolation, Quarantine, and Measles)” for the Arizona Local Health Officers Association.

Bureau of Health Systems Development - Health Unit attorneys provide advice to the Bureau of Health Systems Development regarding its Student Loan Repayment Program and Visa-waiver programs.

Arizona State Hospital - Health Unit attorneys provide daily advice to the State Hospital and Health Unit attorneys and staff prepared numerous weekly filings with the Superior Court. To that end, Health Unit attorneys conducted 159 mental health hearings before the Superior Court and 101 hearings before the Psychiatric Security Review Board regarding civil mental health commitments, guardianships, competency hearings, and forensic patient hearings.

Procurement Office - Health Unit attorneys provide regular advice regarding the Procurement Code, RFIs, RFPs, IGAs, ISAs and MOUs. In addition, Health Unit attorneys reviewed and/or approved 272 contracts sent over by the ADHS.

Civil Money Penalties - The Health Unit attorneys participate in the review, negotiation, and prosecution of administrative enforcement actions taken by ADHS against licensed persons or entities. The sum total of civil money penalties assessed by the ADHS for FY 2016 was \$441,395.

Miscellaneous - Health Unit attorneys participate in the AGO Taskforce Against Senior Abuse, Opinion Review Committee, AGO Procurement/Contracts Committee, and the AGO Indian Law Committee.

Education Unit Major Case Highlights

Arce v. Huppenthal (Ethnic Studies) - Teachers and students in the Tucson Unified School District’s Mexican-American Studies Department brought a 42 U.S.C. § 1983 action against the Superintendent of Public Instruction and the individual members of the Board of Education (collectively, the “Board”) in Federal District Court. The action alleged that the Superintendent and the Board of Education violated their students’ constitutional rights by enforcing A.R.S. § 15-112, a law prohibiting courses that promote the overthrow of the U.S. government, promote resentment toward a race or class of people, are designed primarily for pupils of a particular ethnic group, or advocate ethnic solidarity instead of the treatment of pupils as individuals. The District Court ruled primarily in favor of the Superintendent and the Board on the parties’ cross-motions for summary judgment, invalidating only the provision of the law that prohibited courses “designed primarily for pupils of a particular ethnic group.” Plaintiffs appealed, and Defendants cross-appealed in the Ninth Circuit. The Ninth Circuit issued its decision on July 30, 2015, upholding the facial validity of subsections (2) and (4) of the statute, but striking down (3). (Subsection (1) was not at issue.) The Court remanded for trial the questions of whether the statute was enacted or enforced with discriminatory intent, and Plaintiffs’ viewpoint discrimination claim. The parties engaged in fact and expert discovery and the matter is expected to go to trial later this year or early in 2017.

Arizona v. Maricopa County Community College District (In-state tuition for DACA recipients) - In 2013, Arizona, through the Attorney General, filed a complaint against the Maricopa County Community College District (MCCCD), seeking declaratory and injunctive relief related to MCCCD’s decision to allow students who are eligible for the federal Deferred Action against Childhood Arrivals (DACA) program, to pay in-state tuition (if

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they meet Arizona's residency requirements). The United States Department of Homeland Security uses its DACA program to exercise its prosecutorial discretion to defer prosecution of certain individuals brought to the United States illegally as children. The State alleges that MCCC is violating state law (A.R.S. §§ 15-1803 and 1825), which prohibits community colleges from giving in-state tuition to illegal aliens, and federal law (42 U.S.C. § 1621), which prohibits states from granting most state and local public benefits, including in-state tuition, to most illegal aliens (unless a state passes a law affirmatively granting a right to such benefits after August 22, 1996). The Superior Court allowed three DACA-eligible students who attend MCCC to intervene.

In May of 2015, the Court ruled on dispositive motions filed by all parties, concluding that DACA recipients could be eligible for in-state tuition. Arizona appealed that decision. A Superior Court decision on whether MCCC and the Student-Intervenors are entitled to attorneys' fees is still pending; together, they seek over \$525,000.00 in attorneys' fees. The Court of Appeals is anticipated to set oral argument this fall.

Cave Creek Unified School District v. Ducey, State of Arizona (Prop 301) - Plaintiff school districts brought suit in the Superior Court for injunctive and declaratory relief, alleging that the FY10 legislative budget violated the base level inflation requirements of Proposition 301 and the Voter Protection Act. The State Defendants prevailed in the Superior Court. On appeal, the Arizona Court of Appeals found that the Voter Protection Act required the Legislature to appropriate the inflation increases in education funding. The Arizona Supreme Court affirmed the appellate court's decision. The Supreme Court remanded the case to the Superior Court for further proceedings. On remand, the Superior Court ruled that the State must recalculate the base levels to include the inflation adjustments that it had failed to make in prior fiscal years and that the State must also pay the schools the money that it had withheld during those years. After the Court held an evidentiary hearing in the fall of 2014 regarding additional equitable defenses to the Plaintiffs' claims and to determine the amount of any repayment, the parties entered into settlement discussions. Full agreement on resolution of all claims, except for attorneys' fees, was reached in October, 2015, with the assistance of the Governor. Subsequently, the Legislature enacted legislation and proposed an amendment to the Arizona Constitution, effective upon passage of Proposition 123 that was referred to the voters. The voters approved Proposition 123 on May 17, 2016, authorizing the settlement of the lawsuits and authorizing the funding of payments due under A.R.S. §15-901.01 and the lawsuits. The parties are seeking judicial approval of the form of judgment/dismissals needed to close these cases.

Legacy Education Group et al. vs. Arizona State Board for Charter Schools - Two Arizona charter schools filed a complaint against the Arizona State Board for Charter Schools, seeking declaratory and injunctive relief relating to the Board's use of its academic performance and financial performance frameworks ("frameworks") in its consideration of renewal, revocation, amendment and other decisions pertaining to the charter contracts of its sponsored schools. The charter schools seek a determination that the frameworks are rules under the APA, that the Charter Board's failure to adopt them under the APA renders the frameworks "void and unenforceable, that any and all past or future actions taken by the Board in reliance on the frameworks are also void and without any legal effect or consequence, and a permanent injunction prohibiting the Board's use of its frameworks." The parties are filing dispositive motions.

In the administrative matter of Founding Fathers Academies, Inc. - The Charter Board is defending a decision to revoke the charter of Founding Fathers Academies, Inc. There has been an administrative hearing, and a judicial review action. The matter is presently pending before the Arizona Court of Appeals which is expected to hold oral argument or make a decision this fall.

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Significant Matters

Arizona Department of Education (ADE) - Education Unit attorneys provided day-to-day client advice on special education, school improvement, school finance, federal grant programs, health and nutrition programs, academic standards, trademark, copyright, student assessment, data and student privacy, public records, and procurement matters. We also continue to advise ADE in implementing a Resolution Agreement between the United States Department of Justice and the United States Department of Education Office of Civil Rights related to ADE's development and administration of its assessment (test) for English Language Learners.

Additionally, Education Unit attorneys assisted ADE in drafting FERPA-compliant data sharing agreements and in addressing other FERPA and student record confidentiality issues, assist ADE in its administration of the Empowerment Scholarship program. This program allows qualifying students to receive a scholarship from the state to attend private schools. We provide assistance with enforcement actions against those who make improper use of ESA scholarship funds. Finally, Education Unit attorneys represent ADE in appeals of Investigative Findings rendered by ADE's Dispute Resolution Unit. ADE's Dispute Resolution Unit investigates complaints regarding the provision of special education to children with disabilities under the Individuals with Disabilities Education Act.

Arizona Department of Education Audits - In addition to representing ADE's audit unit generally in connection with audits against the districts and charter schools, the Education Unit attorneys represented ADE's audit unit in settling a claim against Arizona School for Integrated Academics and Technologies, Inc., based on the charter holder's submission of incorrect student enrollment data that significantly overstated their student enrollment. The claim was settled for \$130,000.00 after SIATech prevailed on a motion to dismiss and ADE elected not to appeal.

Arizona State Board of Education (Board) - In addition to representing the Board, Education Unit attorneys reviewed and revised Board meeting agendas for compliance with Open Meeting Law and attended all Board meetings to advise the Board. In addition, Education Unit attorneys participated in the School District Procurement Rules Committee with members of school districts and the Arizona Auditor General's office.

Professional Practices Advisory Committee (PPAC) - In addition to meeting with the Investigative Unit and Board of Education Staff on proposed disciplinary actions and investigations, Education Unit attorneys represented the State in connection with 60 separate disciplinary matters alleging teachers or administrators engaged in professional misconduct that were opened in the last fiscal year. Education Unit attorneys conducted 17 separate administrative hearings before the PPAC, drafted 10 settlement agreements, and worked out details in obtaining surrenders of several teacher certificates. In addition, our attorneys helped close out 26 discipline matters that had been pending from the prior fiscal year. Our Education Unit attorneys also provided regular legal advice to Board Staff and the Investigative Unit staff for the Board, and regularly attended Board of Education meetings regarding discipline matters for certificate holders.

Arizona State Schools for the Deaf and Blind (ASDB) - Education Unit attorneys provided weekly client advice to ASDB staff, reviewed and revised ASDB Board meeting agendas for compliance with the Open Meeting Law and attended ASDB Board meetings upon request to advise the Board.

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Arizona State Board for Charter Schools (Charter Board) - In addition to providing day-to-day client advice to Charter Board staff, Education Unit attorneys assisted the Charter Board in substantially revising its rules relating to its evaluation of charter schools' performance and in its revision of its Academic Performance Frameworks. Education Unit attorneys also assisted the Charter Board in its disciplinary and administrative actions against poorly performing schools under its Academic Performance Framework, including successfully defending an appeal brought by a charter school that challenged its performance ranking. Education Unit attorneys advise the Charter Board Staff on meeting agendas for compliance with the Open Meeting Law, and attend all meetings to advise the Board.

Arizona Commission for Postsecondary Education (ACPE) - Education Unit attorneys review agendas and provide advice to the ACPE for compliance with the Open Meeting Law. The Arizona Commission for Postsecondary Education is the trustee of the Arizona 529 College Savings Plan. Our attorneys reviewed and provided advice on the financial disclosure kit required for 529 college savings plans for Fidelity Funds for compliance with federal and State requirements. In addition, our attorneys responded to the request from PricewaterhouseCoopers, LLC for the annual audit of Fidelity's Arizona College Savings Plan. Education Unit attorneys also drafted a data sharing agreement to allow non-profit college access programs to track and assist students to complete a Free Application for Federal Student Aid form, and drafted agreements to ensure the continued integrity of the College Savings Bank 529 College Savings Plan as it became a division of NexBank. Finally, our attorneys reviewed and provided advice on several amendments to the Waddell & Reed contracts.

School Facilities Board (SFB) - In addition to providing day-to-day client advice to the SFB on personnel issues, conflict of interest issues, procurement issues and federal grant and bond issues, Education Unit attorneys assisted the AGO in certifying that the Refunding Certificates of Participation 2015A issued by the SFB were in compliance with Arizona law. Also, our attorneys advised the SFB on open meeting law issues, public records requests, and proposed legislative changes.

Attorney General Opinions - Education Unit attorneys reviewed four (4) requests for separate Attorney General Opinions, drafted three (3) opinions for review, and recommended that a decline to review letter be issued in response to one (1) request.

Dollars Generated or Saved - Education Unit attorneys advised the SFB in connection with one (1) financial transaction that will save the state almost \$13,000,000 in lease-purchase payments related to the SFB refunding the 2015A series of Certificates of Participation. In addition, our attorneys settled the SIATech case and recovered \$130,000 for ADE.

Miscellaneous - Education unit attorneys serve on the Office's Ethics and eDiscovery Committees and provide assistance on Open Meeting Law enforcement matters as requested.

Employment Law Section

With a collective 155 years of experience in employment law (an average of 17 years per attorney), the Employment Law Section (ELS) supports the effective management of Arizona Government's most important resource - its employees. ELS provides advice and counsel to more than one hundred state agencies, boards, and commissions on a wide variety of employment issues, at every stage of the employment relationship. ELS provides proactive

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training for supervisors in state government in order to promote sound management practices and positive employee relations, thereby minimizing liability to the State. ELS also counsels and defends client agencies when necessary against claims of sexual and other forms of harassment, disability, gender, age, race, national origin and religious discrimination, wrongful discharge and various employment-related torts. ELS attorneys regularly represent state agencies in state and federal courts and before administrative agencies such as the U.S. Equal Employment Opportunity Commission (EEOC) and the State Personnel Board. ELS also represents the State in workers compensation matters that would otherwise be referred to outside counsel.

Major Accomplishments

ELS Advice and Hearing Practice

Timely and Accurate Employment Law Advice - ELS provided more than 3,225 hours of legal advice to State human resources professionals and agency management on a wide range of day-to-day employment issues such as employee performance, employee discipline, wage and hour issues under the Fair Labor Standards Act, accommodating individuals with disabilities, and leave issues under the Family and Medical Leave Act.

Extensive Training for Supervisors and Agencies Across Arizona - Another key component to preventing EEOC charges and employment lawsuits against the State of Arizona is training state employees, particularly supervisors, on state and federal employment laws including anti-discrimination statutes, wage and hour laws, and medical leave and disability laws. On a quarterly basis, ELS attorneys provide four-hour, in-person training sessions for the Arizona Department of Administration to ensure that every new supervisory employee in State government receives employment law compliance training. ELS also provides training sessions to specific state agencies upon request, on topics such as ADA and FMLA compliance and keeping the workplace free of discrimination and harassment.

Representation of State Agencies in Administrative Appeals - ELS opened 36 new administrative appeals brought by State employees in response to a termination or other disciplinary action, and devoted 1,441 hours to preparing for and litigating those hearings before the State Personnel Board, Law Enforcement Merit System Council, and other tribunals.

Significant Matters

Shelton v. Department of Public Safety (DPS) - In January 2014, a DPS officer was terminated for driving his state vehicle to a training session at 8:00 a.m. while under the influence. The officer appealed his termination. At the appeal hearing, an expert testified regarding the breath alcohol test that was administered a few hours after driving, and explaining how with retrograde extrapolation the test could determine what the breath alcohol level of the employee would have been at the time he drove his state vehicle to work. DPS proved by a preponderance of the evidence that the officer drove his state vehicle to work under the influence, and that just cause existed to discipline the officer. However, the Law Enforcement Merit System Council (LEMSC) found that termination was arbitrary and capricious and recommended a 240-hour suspension instead. On June 4, 2014, the DPS Director rejected LEMSC's recommendation and affirmed termination. The officer appealed to Superior Court. On February 13, 2015, the Superior Court affirmed the Director's decision. The officer then appealed to the Court of Appeals, arguing that termination was unsupported by substantial evidence. On April 14, 2016, the Court of Appeals affirmed the Director's decision.

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Carlson v. DPS- In Carlson, the employee worked for DPS as a State Trooper. He and his wife were neighbors with another Trooper, who was being investigated for inappropriately transporting firearms to the home of a “Mrs. Carlson.” At the time of the investigation into the other Trooper’s alleged misconduct, the Department was unaware that Mrs. Carlson was the wife of Trooper Carlson. The investigators had left a DPS business card at the residence of Mrs. Carlson to speak with her. Carlson never responded to the Department. It was later discovered that Mr. Carlson lived at that residence. When questioned about the possible inappropriate transfer of firearms to and from his residence he initially claimed to the investigators that he was not involved in the transfer, then later admitted to “probably” helping, and eventually admitted to handling the guns. He admitted to investigators that the number of firearms were “a lot” and were “stacked up” in his home front office. On January 7, 2016, Mr. Carlson was terminated for conduct adverse to the Department and dishonesty. Mr. Carlson appealed his termination to LEMSC, which found that DPS proved by a preponderance of the evidence that there was just cause for termination.

ELS Workers’ Compensation Practice - ELS’s workers’ compensation group opened 119 new matters and closed 99 matters. ELS attorneys and legal assistants billed 3,930 hours to workers’ compensation matters. These matters require statewide administrative litigation, and the group makes efficient use of telephonic and video appearances when feasible. The group also handles its own appeals to the Arizona Court of Appeals. Additionally, ELS workers’ compensation attorneys provide significant legal advice to adjuster clients and to State agency personnel when they approach ELS with workers’ compensation issues.

Employment Litigation Practice - ELS provides sound legal advice and assists State agencies and departments to avoid liability, by attempting to address complaints and resolve problems early, creatively, and without the need for litigation. When the need for litigation does arise, ELS provides effective and efficient representation; the average hourly rate of ELS attorneys for litigated matters was \$171, compared to \$239 for matters referred to outside counsel.

ELS represented the State in employment lawsuits covered by the State’s self-insurance program, as well as in non-risk management cases. As in FY14-15, ELS opened files for 26 new Risk Management lawsuits during the last fiscal year. ELS also monitored and assisted agencies in responding to 125 new charges of discrimination filed with the federal Equal Employment Opportunity Commission, down slightly from the previous year. ELS closed 86 EEOC charges. ELS attorneys and legal assistants billed more than 7,959 hours on Risk Management litigation matters (lawsuits, claims and EEOC charges).

Major Case Highlights

Lamar v. Department of Economic Security (DES) - A former employee sued DES and its Director in federal court following her termination of employment. ELS advanced compelling factual and legal defenses at the outset of the case. At the initial scheduling conference, the presiding judge inquired about the employee’s responses to those defenses and expressed doubt about the viability of the claims asserted. The case was voluntarily dismissed at the initial scheduling conference.

Montgomery v. DPS - ELS obtained summary judgment in a U.S. District Court case brought by an officer who alleged sex discrimination and retaliation under Title VII of the Civil Rights Act of 1964. In 2007, DPS terminated

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the officer's employment because of a series of actions taken to create the appearance that she was too busy to assist a fellow officer during a traffic stop, when in truth she was available but unwilling to provide assistance. She appealed her termination to LEMSC, which modified her termination and imposed a 143-day suspension without pay instead. The Peace Officers' Standards and Training Board imposed a 143-day suspension of her law enforcement certification. The officer then sued DPS, alleging that the Department discriminated against her on the basis of sex because male officers allegedly had engaged in similar conduct but DPS failed to investigate or discipline them. She further alleged that DPS engaged in a series of retaliatory actions when she returned to work following her suspension such as failing to promote her to the rank of sergeant and imposing more stringent requirements on her than on male DPS officers. The Court granted full summary judgment to DPS and entered a cost judgment against the plaintiff.

Liability Management Section

The Liability Management section defends the State of Arizona and its employees in cases in which money damages are requested in tort and civil rights cases. LMS also provides advice to the Risk Management Section of ADOA on matters related to liability claims.

Major Accomplishments

The hourly rate for cases defended by LMS attorneys and staff this fiscal year was \$99 per hour. In comparison, the average hourly rate billed by outside counsel appointed to defend LMS cases in which there was no conflict was \$227 per hour.

One of the primary goals of LMS is to minimize the number of non-conflict cases which are sent to outside counsel. This goal is based upon the fact that the hourly rate for LMS to defend cases is significantly lower than the hourly rate billed by outside counsel for defense services. The total attorneys' fee paid to outside counsel in non-conflict cases in FY 2016 was \$1,260,519, an increase of 776,921 compared to FY 2015. This increase results from an increase in the number of cases assigned to attorneys in LMS in the last several fiscal years which results in more non-conflict cases having to be assigned to outside counsel. To stop or lessen this increase in outside counsel fees, LMS should add funded attorney positions at its lower hourly rate.

Major Case Highlights

Creelman v. State of Arizona, et al. - The Plaintiffs alleged a Department of Public Safety (DPS) officer was negligent in the manner in which he brought traffic to a stop on SR 101 in order to allow two vehicles involved in an accident and stranded against the concrete median barrier to safely move across the four lanes of travel and into the emergency lane on the right shoulder. After stopping all traffic a back-up of over one quarter of a mile was present. The Plaintiff, riding a motorcycle in the HOV lane, came upon the traffic stopped in all lanes of travel and did not slow his speed from 60mph. As he approached the two vehicles stranded next to the concrete barrier, the officer motioned for those vehicles to move to the shoulder. The co-defendant, operating one of these vehicles, moved into the HOV lane without first checking his rear view mirror for possible hazards. His vehicle clipped the motorcycle causing it to crash. Plaintiff sustained serious personal injuries, including an injury which caused one of his legs to be almost two inches shorter than his other leg. Before trial, the Plaintiff made a demand to the State for \$950,000.

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After a two week jury trial, the jury awarded the Plaintiff almost \$1.7 million in damages for his injuries, medical expenses, and wage loss. The jury placed 45% of the fault on the Plaintiff, 48% of the fault on the driver of the vehicle stranded by the concrete barrier, and 8% of the fault on the State (approximately \$136,000).

Ahmad v. State, 2016 WL 3773547 (Ariz. App. July 12, 2016)¹ - Law-enforcement officers pursued a fleeing bank-robbery suspect. The chase ended when the suspect collided head-on with a car driven by Alex Ahmad, killing Ahmad. His parents sued the State (among others) alleging that Department of Public Safety employees had acted negligently during the pursuit. The case went to trial, and the jury found for the plaintiffs. It allocated only 5% fault to the State, but it set the plaintiffs' damages at \$30 million, resulting in a \$1.5 million award against the State. We moved for remittitur, pointing out that the verdict far exceeded verdicts in recent similar cases. The court granted our motion and remitted the judgment to \$10 million and leaving a \$500,000 judgment against the State.

Division One reversed. It held that wrongful-death actions are different from other actions for damages because juries are statutorily directed to "give such damages as it deems fair and just." The court concluded that this broad provision requires utmost deference to the jury's sense of fairness, and remittitur in such cases must be based upon specific findings demonstrating that no reasonable jury could have reached the verdict based on the evidence presented." It concluded that the trial court's remittitur order was insufficient under the standard that it adopted, and it remanded to the superior court with a specific instruction to reinstate the jury's award.

We recently moved for reconsideration. We asserted that the court of appeals had adopted a new standard, one not previously known in Arizona. We argued essentially that if the court is going to change the rules of the game after the game has ended, it needs to give us and the trial court the opportunity to play by the new rules. We are not very optimistic about our chances of success on that motion.

Whether or not our motion for reconsideration succeeds, we will be seeking review in the Supreme Court. The court of appeals gives no cogent reason why the rules for remittitur rules in wrongful-death actions should be any different from the rules in other damages actions. The fact that the wrongful-death statute requires the jury to give damages that are fair and just is a pretty weak reed on which to build the Court of Appeals' argument. The fact is that we expect juries to give fair and just damages in any case they are asked to decide. We think that there is a fair chance that the Supreme Court will be interested in correcting the court of appeals on this issue.

Another problem with the court of appeals' decision is its wishy-washiness on the issue of comparing the verdict in question with other verdicts. The court denigrated the practice of basing remittitur motions on comparative jury verdicts, finding it "unpersuasive." At the same time, it stated that "[a] reliable survey of damages in similar cases can serve as a useful reference." We had followed the comparative-verdict approach because previous Arizona cases have embraced it. The court's opinion in this case adds confusion on this issue. The truth is that some previous opinions embrace the methodology while other caution against relying on it mechanistically. This is a situation that calls for clarification, so again we think that there is a fair chance that the Supreme Court would grant a petition for review.

At the very least, a petition for review would give the Supreme Court a chance to depublish the Court of Appeals' opinion. While that would leave the Court of Appeals' decision in place, at least it would get rid of the bad precedent that its opinion creates.

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Ettcity v. State of Arizona, et al. - This case arises from an accident on SR191 involving a car and a cow on this two lane highway. Approximately fifteen minutes after that accident, the Plaintiff was hit by a car which was driving through the accident scene. There was no explanation or any reason why the Plaintiff was standing in the middle of the highway when she was struck by a vehicle. The evidence established that the last time anyone at the scene saw her, she was standing on the side of the roadway behind the disabled car which had hit the cow.

The State filed a motion for summary judgment arguing the Plaintiff had to establish some act or failure to act on the part of the State caused her to be in the middle of the roadway rather than on the shoulder at the time she was struck by the vehicle. The judge agreed and granted summary judgment. Plaintiffs have appealed.

Significant Appellate Decisions

During the last fiscal year, the appellate courts issued decisions (memorandum decisions, opinions, and orders) in approximately 60 LMS appeals. There were 31 orders dismissing appeals (including 1 order declining jurisdiction over a special action). There were 26 memorandum decisions on the merits, and 5 opinions on the merits. The opinions included the following:

Torres v. Goddard, 793 F.3d 1046 (9th Cir. 2015)² - The plaintiffs challenged the actions of the Attorney General's Office in intercepting and seizing — and sometimes forfeiting — Western Union wire transfers of money in an investigation into illegal smuggling between Mexico and the United States. They sued then-Attorney General Terry Goddard and then-Assistant Attorney General Cameron Holmes³, contending that their Fourth Amendment rights were violated by the process established to carry out broad, sweeping seizures of wire transfers that, having met specified criteria, appeared to be illegitimate. The district court granted summary judgment to the defendants, holding that Holmes had absolute prosecutorial immunity in applying for, obtaining, and serving the associated search warrants. It also held that Goddard had absolute immunity for supervising Holmes's actions.

The Ninth Circuit affirmed in part and reversed in part. It held that absolute immunity applied to both Holmes and Goddard for Holmes's actions in obtaining the search warrants, because these were prosecutorial actions intimately associated with the associated legal proceedings. But absolute immunity did not apply to the allegations that Holmes had served the search warrants, because this activity is a police function, not a judicial one.

Reza v. Pearce, 806 F.3d 497 (9th Cir. 2015)⁴ - Political activist Salvador Reza sued then-Senate President Russel Pearce and two Capital Police officers when he was denied entrance to the Senate building and then arrested. The officers had acted pursuant to Pearce's order barring Reza from the building, which followed a raucous hearing that Reza had attended. On Reza's claim that the order and arrest violated his First Amendment rights, the district court granted summary judgment to Pearce based on qualified immunity. It also granted the police officers' motion to dismiss.

In a split decision, the Ninth Circuit affirmed as to the officers but reversed as to Senator Pearce. The court held that the Senate building was a limited public forum and that although Senator Pearce's restrictions on Reza were content neutral, material issues of disputed fact existed as to whether concerning whether Reza had actually

2 Torres v Goddard, LMS-06-0368: David Weinzweig.

3 After Holmes's death, his estate was substituted as defendant.

4 Reza v LEG, LMS11-0251: Loren Ungar, Rose Law Group (outside counsel).

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disrupted the proceedings and whether Pearce had legitimate concerns that Reza would interrupt legislative proceedings if he were allowed back into the Senate building. It affirmed the dismissal of the claims against the officers because they had arrested Reza in reliance on Senator Pearce's order, which was facially valid. Judge Clifford Wallace dissented from the reversal of Pearce's summary judgment, stating that his order was reasonable under the circumstances and therefore did not violate the First Amendment.

Lorenz v. State, 238 Ariz. 556 (App. 2015)⁵ - The Lorenzes sued the State and Department of Economic Security officials, asserting that the defendants had negligently violated their rights as grandparents by allowing somebody else to adopt their grandson, who had been placed in foster care because his parents were unfit. During dependency proceedings, the grandparents had moved out of the country, and the Department of Child Safety had not contacted them to see if they would like to adopt the boy; his foster parents ended up adopting him. The superior court dismissed.

The court of appeals affirmed. It rejected the Lorenzes' argument that the State has "a nondelegable duty to provide for appropriate and lawful placement of dependent children with grandparents if adoption is contemplated." The statutes and regulations on which the Lorenzes relied were intended to benefit the child, not his grandparents. This was a solid victory and sets a good precedent for DCS.

Sanders v. Alger, 2016 WL 3369223 (Ariz. App. June 16, 2016)⁶ - The Department of Economic Security hired Jeanette Sanders to provide in-home services to Francis Alger, a 60-year-old man with physical and mental infirmities, including cerebral palsy, hypertension, Hodgkin's Disease, anxiety, borderline diabetes, and cataracts. Because of his condition, Alger was a known fall-risk, and Sanders agreed that one of her responsibilities was protecting him when he fell. One time when he fell, she caught him and suffered personal injuries in the process. Instead of claiming benefits from the fund that DES established to compensate independent in-home care workers like her, Sanders sued Alger, asserting that he had acted negligently in falling and injuring her. The superior court granted summary judgment, holding that the firefighters' rule—under which firefighters and police officers whose duty it is to come to people's rescue have no negligence claim against persons who create the emergency requiring the rescue—extended to Sanders.

Division Two reversed. It declined to extend the firefighter's rule to in-home care workers both because it distinguished them from firefighters and policemen and because it elected to leave to the Supreme Court the decision whether to extend the rule. It also held that Alger owed a tort duty to Sanders not to negligently fall, even though she had been hired in part specifically to help him because he was a known fall risk. Finally, the court declined to hear our argument that the evidence adduced at summary judgment was not enough to establish negligence.

We moved for reconsideration on the evidentiary ruling, arguing that the Appellate Court had to examine the issue because it must affirm the judgment any correct ground argued below. The Court denied our motion, and we are preparing a petition for review to the Supreme Court on the duty issue and the firefighter's rule.

Cost Savings to the State - LMS continues to perform liability defense legal work for the State of Arizona at a rate which is more than 50% less than that billed by outside counsel in non-conflict liability cases. The LMS rate is

5 Lorenz v DES, LMS12-0401: Brock Heathcotte.

6 Sanders v DES, LMS13-0295: Cassandra Meynard and Rob McCright.

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\$99 per hour while the average outside counsel rate is \$227 per hour. The cost savings to the State is very large. The addition of funded attorney positions to LMS would result in more savings to the State.

Licensing Enforcement Section

LES represents over forty state agencies, boards and commissions. Its attorneys act as “general counsel” for these entities, and also provide representation in administrative hearings before the boards, the Office of Administrative Hearings, in the Superior Court in connection with judicial review actions, special actions and subpoena enforcement actions, as well as in the Court of Appeals. LES also assists in the rule making process, monitors and provides input on legislation, and ensures compliance with open meeting, public records requests, and statutory changes.

Major Accomplishments

In the past fiscal year, LES opened 652 case files, and closed 830. In addition, it assumed responsibility for providing independent legal advice, both procedural and substantive, to its client agencies in connection with prosecutions and adversary proceedings. That role was previously assigned to SGO, but was limited to giving only procedural advice. It is also currently involved in five cases pending before the Court of Appeals.

Major Case Highlights

Home Lift Now - After defeating Home Lift Now’s application for a temporary restraining order and preliminary injunction, LES was successful in defending the ROC’s summary suspension of Home Lift Now, and obtained a revocation of its license. The company was cited for over 30 violations, including misrepresentations in its application for licensure, unlicensed contracting, aiding and abetting unlicensed subcontractors, working outside of the scope of its license and failing to obtain required building permits.

Appellate Highlights

Benevolent and Protective Order of Elks #2656 - LES was successful in the Court of Appeals in defending a Liquor Department determination that the Elks “sweepstakes” was illegal gambling. In particular, the Court held that the “knowingly” requirement in the statute did not require proof that the Elks knew that the gambling was unlawful.

Robinson v. Arizona Dental Board - ES successfully defended a decision by the Dental Board revoking Robinson’s license subject to a five year stay and imposing a civil penalty based on improper billing practices. He was also required to take additional continuing education classes and undergo ongoing records audits.

Ogbannaya v. Arizona Medical Board

The Court of Appeals upheld the decision of the Medical Board revoking Ogbannaya’s license, even though he was acquitted of criminal charges involving the same conduct that formed the basis for the revocation.

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<i>Civil Assessments and Penalties</i>	
<i>(in dollars)</i>	
Nursing Board	\$1,450.00
Arizona Medical Board	\$10,000.00
Private Postsecondary Education	\$4,700.00
Behavioral Health Examiners	\$600.00
Athletic Trainers	\$1,500.00
Board of Cosmetology	\$140,150.00
Fire, Building & Life Safety	\$23,400.00
Barber Board	\$13,750.00
Chiropractic Board	\$250.00
Physical Therapy Board	\$2,000.00
Racing Commission	\$27,225.00
Liquor Board	\$466,575.00
Accountancy Board	\$20,261.20
Medical Radiologic Tech	\$554.00
Respiratory Care Examiners	\$1,533.00
Registrar of Contractors	\$659,720.00*
Funeral Board	\$33,000.00
Dental Board	\$15,650.00
Osteopathic Board	\$1,100.00
Pharmacy Board	\$40,250.00
Nursing Care Administrators	\$250.00
TOTAL	\$1,463,918.20

*This figure does not include a \$1,277,500.00 civil penalty which is now the subject of a judicial review action.

In addition, LES successfully defended over \$200,000.00 in claims made against the Registrar's Residential Contractors Recovery Fund.

Natural Resources Section

The Natural Resources Section ("NRS") provides advice and representation to the Arizona State Land Department (in its roles as trustee of state trust land, and as public trust advocate for navigability for title issues). NRS provides representation to a variety of State agencies, primarily the Arizona State Land Department (ASLD). The ASLD manages over eight million acres of State Trust Lands and NRS is called upon to assist on many legal issues involving Federal and State laws governing the management of state trust land. NRS also represents the State Parks Board ("State Parks"), the Department of Forestry and Fire Management, the State Mine Inspector, the Prescott Historical Society and the Board of Geographic and Historic Names. The Section also represents the State in its water rights claims in the two ongoing general stream adjudications. The NRS performs the Attorney General's statutory review of the comprehensive plans of political subdivisions for conformance with statutes limiting use in the vicinity of military airports or ancillary military facilities.

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Major Accomplishments

NRS attorneys assisted agency clients and successfully negotiated with the FAA to address release of land use restrictions to address safety issues; defended the State against a challenge to an order on improvement reimbursement, negotiated to resolve environmental issues through sale of state land; negotiated settlement of a state mine reclamation matter, assisted the Mine Inspector with rule drafting effort; continued representation of the public trust advocate on presentation of case for navigability of the Verde River and the Salt River before the Arizona Navigable Stream Adjudication Commission (“ANSAC”), and NRS provided legal support to advance the ASLD’s generation of \$80 million in sale and long-term lease revenue during the fiscal year.

The NRS aided State Parks in the development of several large Request For Proposals (RFPs) for concessioners to run various state parks. The parks are: Fool Hollow, Kartchner, Lake Havasu, Tonto Natural Bridge, Slide Rock, and Patagonia. RFPs were designed to reduce the costs to Parks for maintenance, incentivize concessioners to make improvements and to conduct continued maintenance, reduce the costs to State Parks for compensating for any improvements at the end of the contract period, and ensure high quality service and product at each Park. The AGO worked with State Procurement and Parks to design RFPs that protected State Parks from future asset liability while maintaining incentives for concessioners to engage in Park development. These are long term contracts, 20-50 years in length, and will have a lasting impact on Arizonans’ use of State parks by creating an efficient use of tax payer dollars as well as quality State Park resources.

Major Case Highlights

Arizona Navigable Streambeds Commission Proceedings - The NRS continues to represent the State Land Commissioner in proceedings before the Arizona Navigable Streambeds Commission (“ANSAC”). The ANSAC is responsible for determining the navigability of all Arizona watercourses for title purposes. The State Land Commissioner has a statutory duty to advocate for the public trust, to promote public trust interests, and challenge the ANSAC’s decisions as necessary to protect public trust interests. NRS represented the Land Commissioner before the ANSAC throughout the last fiscal year, including completing hearings, briefing, and oral argument on the Verde River, and completed hearings for the Salt River. For the Verde, in this fiscal year, the work entailed submission of opening and closing briefs, findings of fact and conclusions of law, and presenting closing oral argument. For the Salt, the work entailed submitting evidence of navigability including several expert reports, presenting four expert witnesses, responding to and cross examining five expert witnesses and their reports throughout 23 days of hearings, and beginning work on the opening brief.

In re Aravaipa - The NRS represented the State in the trial in the Aravaipa contested case in the Gila River General Stream Adjudication (“Gila”). The Aravaipa case involves the quantification of federal reserved rights to surface water and groundwater for the Aravaipa Wilderness Area. The amount of the federal claim will affect the availability water for other uses.

In re Fort Huachuca - The NRS represents the State in the Fort Huachuca contested case in the Gila. This contested case involves the quantification of the federal reserved right to surface and groundwater for Fort Huachuca. The amount of the federal claim will affect the availability of water for other uses.

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Significant Matters

The NRS section has continued its representation of the State in the two general stream adjudications for the Gila River System and Source (“Gila”) and for the Little Colorado River System and Source (“LCR” pending in the Maricopa County Superior Court. A number of contested cases have been queued up in the Gila and NRS and apart from the In Re Aravaipa and In Re Fort Huachuca, NRS is engaged in discovery and trial preparation for the Fort Huachuca contested case, engaged in discovery in Redfield Canyon contested case, and has a motion to intervene in the San Pedro Riparian National Conservation Area contested case. In the LCR the NRS was involved in review of materials related to the water rights claims for the Hopi Reservation.

Cost Savings to the State

In Isgro v. Atkins and State Land Department, NRS obtained dismissal of the action for damages against the ASLD. The damages were not specified in the Complaint but the notice of claim suggested the claim amount to be between \$100,000.00 and \$310,380.00.

NRS assisted State Parks in successfully terminating the Sand Point concession contract. This 42-year lease was terminated by State Parks but the concessioner claimed entitlement to the value of all of the improvements made on the property, which the concessionaire estimated at \$780,000. After multiple assessments of the value of the improvements, an analysis of the contracts, and conversations and meetings with concessioner’s counsel, the NRS helped State Parks formulate the position that no money was owed the concessioner because the improvements did not meet current safety standards and codes, were not improvements made by the current concessioner, or were unapproved improvements. State Parks saved \$780,000 and is currently in the process of rebuilding the site.

Tax Section

The Tax Section represents the Arizona Department of Revenue (“ADOR”) in property tax, income tax, transaction privilege (sales) and use tax, and several other tax areas. It also represents the Arizona Department of Transportation (“ADOT”) in fuel tax and aircraft license matters. The Section represents both agencies in administrative hearings and in lawsuits, and advises both on tax matters independent of litigation.

Major Accomplishments

The Tax Section’s roles are to defend the integrity of state tax laws and to assist its clients in the application and enforcement of those laws. The Tax Section had several notable litigation victories the past year as set forth below.

Major Case Highlights

SolarCity v. ADOR, TX2014-000129 - Two “distributed solar” energy companies filed lawsuits challenging ADOR’s valuation of their solar equipment for property taxation purposes. Distributed solar companies install their equipment on their customers’ improved properties, usually on rooftops, as opposed to building large (traditional) solar arrays on vacant land in unpopulated areas. ADOR values the real and personal property of traditional solar generators for property tax purposes, and believes that under the Exemptions Clause and the

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Uniformity Clause of the Arizona Constitution, it also needed to value the solar equipment of distributed solar companies. The Arizona Tax Court agreed with ADOR, holding that exempting the equipment of distributed generation companies from property taxation would be unconstitutional under the Exemptions Clause because no exemption for such equipment is set forth in the Constitution and under the Uniformity Clause because comparable solar and other electrical generation equipment of the Plaintiffs' direct competitors was being taxed. Hundreds of millions of dollars will be added to the tax rolls if the ruling is upheld, reducing the property tax burden on others. Moreover, other electrical generators who pay property taxes on their electrical generating equipment will be assured of a more level playing field vis-à-vis distributed generation companies. The matter is briefed and is awaiting argument at the Court of Appeals.

Saban v. ADOR, TX2010-001089 - Car rental companies filed a class action challenging the constitutionality of a transaction privilege (sales) tax ("TPT") on income earned by those companies from their rental of vehicles. The companies sued both ADOR and the Arizona State Tourism Authority ("AzSTA"), a municipal corporation created in part to fund the construction and operation of sports stadiums for tourism purposes. The Tax Section, on behalf of ADOR, and AzSTA, which was separately represented by its own counsel, defeated Plaintiffs' claim that the tax violated the Dormant Commerce Clause of the United States Constitution. ADOR and AzSTA lost on Plaintiffs' claim that the tax violated a State constitutional provision that allegedly requires that TPT relating to vehicle rentals be used only for roadway purposes. The Tax Section won a subsequent ruling from the Tax Court that as between the State and AzSTA, AzSTA and not the State is ultimately liable for the payment of refunds, refunds that could approach \$150 million. All parties have appealed the Tax Court's ruling, and briefing should be complete in late fall 2016.

AAA Scholarship Foundation, Inc. v. ADOR, C 20163072 - AAA sought and obtained a temporary restraining order ("TRO") that prohibited ADOR from awarding tuition credits to charitable entities that use such credit monies to provide scholarships to low-income and disabled students. The total amount of credits that may be awarded annually is capped by statute. Credits are awarded on a first-come, first-served basis dependent upon when the credit applications are received by ADOR via email starting at midnight, July 1. AAA allegedly sent its applications via emails at midnight, but ADOR did not receive them. Later that morning, having discovered that the midnight emails were not received by ADOR, AAA resent them. By then, however, many other applicants had emailed their applications, and AAA's credit awards under the first-come, first-served system had dropped from \$11.7 million to \$5.2 million. Although AAA convinced the trial court in an ex parte hearing to enter a TRO against ADOR that prevented it from awarding the credits, the court dissolved that TRO at a hearing a week later after ADOR established that its computer had never received AAA's midnight emails, and that the fault for that apparently laid with AAA's internet service provider. Upwards of 20 representatives from other student tuition organizations submitted letters and attended the hearing in support of ADOR's position and the integrity of ADOR's selection process.

DealerTrack, Inc. v. ADOR, TX2013-000256 - DealerTrack is a provider of software designed to facilitate the financing of car sales nationwide, including in Arizona. ADOR determined that DealerTrack owed transaction privilege (sales) tax ("TPT") on software subscriptions sold to Arizona car dealerships. Dealerships do not download the software; rather, they access DealerTrack software products via the internet—software that was located on DealerTrack's platform out of state. DealerTrack challenged ADOR's assessment, arguing that it was providing services and not renting tangible personal property in Arizona. After ADOR filed a motion for summary judgment, DealerTrack offered to settle for an amount close to the original assessment. This outcome is

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significant in that it reinforces and is consistent with ADOR's treatment of subscriptions of canned (as opposed to customized) software as a rental of tangible personal property subject to TPT, an issue of interest amongst state revenue agencies nationwide.

AEPCO v. ADOR, TX2014-000458 - AEPCO owns and operates the Apache Generating Station ("Apache"), an electrical power generation plant in Benson, Arizona. AEPCO buys and takes title to coal and natural gas from out-of-state companies—companies do not pay any Arizona TPT on the sale—and uses the fuel to generate electricity at Apache. The Department collects a use tax on those out-of-state purchases. AEPCO filed a refund claim for the period from August 2003 through June 2010 for over seven million dollars, claiming that its purchases of coal and natural gas were outside the scope of the use tax, or alternatively that the purchases were exempt. AEPCO argued that the energy in coal and natural gas become a component part of electricity. The Department argued that coal and natural gas are used, consumed and destroyed in the process of generating electricity and that no byproduct of the coal or natural gas enters into the final product: electricity. The Arizona Tax Court agreed with the Department, holding that AEPCO's purchases were subject to use tax and were not subject to an exemption from the tax. AEPCO appealed the decision, and the parties are currently briefing the issues.

Cost Savings to the State

It is difficult to precisely measure savings to the State from the Tax Section's victories and partial victories in our representation of ADOR. In property tax cases, the savings from a victory rarely inure to the State because although ADOR values some properties (as opposed to county assessors) and defends those values in court, the resulting property taxes are almost always paid to local taxing entities (school districts, fire districts, community colleges, etc.).

In transaction privilege and income tax matters, the savings from a victory are usually exponentially greater than the amount at issue in any given case. That is because a victory against one taxpayer, such as a retailer, might preclude tens or even hundreds of other taxpayers from making and prevailing on similar claims. Suffice it to say that the Tax Section's efforts safeguard the collection or prevent the refund of millions, tens of millions, or occasionally hundreds of millions of dollars in tax revenue each year.

Tax savings to ADOT, whose cases are far more discrete and measurable, totaled approximately \$266,000 in fiscal year 2015-2016.

Transportation Section

The Transportation Section provides legal services to the Arizona Department of Transportation (ADOT) on a wide variety of matters. These include litigation and advice related to acquisition of real property needed for highway construction purposes, as well as related construction contract matters. We represent the Motor Vehicle Division of ADOT in regard to motor vehicle registration, driver licensing and other issues. We provide legal advice to the Aeronautics Division of ADOT, which oversees the Grand Canyon Airport, and to Arizona Highways Magazine. Representation and advice are provided on procurement matters, IGA's, grant agreements, personnel matters, property management, public records, and open meetings. We also represent the Arizona Department of Public Safety (DPS) in regard to a host of licensing and certification issues, including concealed

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weapon permits, private investigators and security guards, criminal history record information, and a statewide sex offender registration database.

Representation is provided to a wide range of boards, commissions, and committees, including the Priority Planning Action Committee, the Law Enforcement Merit System Council, the Over-Dimensional Permit Council, the Arizona Council for D.U.I. Abatement, the Arizona Motorcycle Safety Advisory Committee, the Citizens Transportation Oversight Committee, the Arizona Companion Animal Spay and Neuter Committee, ADOT's Homeland Security Committee, MVD's Medical Advisory Board, and the School Bus Advisory Council.

We now have 18 attorney positions and 13 support staff positions which include legal secretaries, legal assistants and real estate analysts. Ten attorney positions are assigned to a Condemnation Unit and are primarily involved in eminent domain and construction contract litigation related to state highways. Four attorneys are assigned to represent MVD, three to represent DPS, and one to deal primarily with procurement and contract issues.

The time taken to resolve cases varies considerably depending on the complexity of issues and the amount at stake. Eminent domain cases frequently involve significant monetary exposure to the State, with issues related to real property valuation and appraisal methodology, engineering, land planning, economics, as well as public use and necessity. A typical condemnation case will take approximately two years from filing the initial Complaint to obtaining a Final Order of Condemnation after entry of Judgment.

Attorneys representing MVD protect the safety of Arizona drivers by defending administrative decisions which are subsequently appealed to Superior Court, and then to the Arizona Court of Appeals. These actions are primarily related to suspension of driving privileges. A typical administrative appeal will take approximately six months to conclude.

Attorneys representing DPS prosecute/defend suspensions and denials of certifications related to private investigator and security guard licenses, school bus driver certifications, concealed weapons permits, and other matters regulated by DPS.

Our Section also reviews or drafts Intergovernmental Agreements, Interagency Service Agreements, and general contracts. We are frequently involved in negotiation, review and revision before these agreements are finally approved.

Major Accomplishments

Several TRN attorneys, including Bryan Perry, Joe Acosta and Lisa Mullins, assisted ADOT in preparing documents and procedures for procurement of an agreement to design, build and maintain the L202 South Mountain Freeway under a public/private partnership (P3) arrangement. Final negotiations were completed, and the agreement was executed in February of 2016. The L202 South Mountain project will be ADOT's largest single construction project, with costs estimated at just under \$2 billion.

Major Case Highlights

State v. DTD-Devco, 1 CA-CV 13-0721 - Adrienne Weinkamer and Jennifer Dorsey prevailed before the Court of

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Appeals. The appellate court upheld the lower court's grant of Summary Judgment awarding compensation in the amount of ADOT's valuation evidence when the property owner failed to comply with court ordered discovery and disclosure deadlines. A Petition for Review was denied by the Arizona Supreme Court in July of 2015.

Boruch et al. v. State, CV2014-014115 - Ron Aschenbach and Joe Acosta successfully defended the State. Plaintiff sought declaratory judgment in an action related to flooding of numerous homes during an unusually heavy rainstorm, alleging ADOT and the City of Mesa allowed water channeled into US 60 drainage facilities to overflow into an adjacent neighborhood. The matter was dismissed by the Superior Court and is now pending in the Court of Appeals.

State v. BD218 - Ron Aschenbach and Lisa Maxie Mullins successfully resolved, an eminent domain action filed to obtain 15 acres of land needed for construction of the SR202/SR24 traffic interchange. The matter settled for \$7,500,000 less than the property owner's initial demand.

In re: Any Charity Unlimited dba DCR Title Services v. ADOT - Leslie Coulson obtained a decision from the Arizona Court of Appeals, upholding MVD's decision to cancel a third party service provider's authorization. The memorandum decision affirmed that administrative law judges are constitutionally permitted to perform a dual "inquisitorial" and adjudicative role in agency hearings.

Our MVD attorneys - Leslie Coulson, Misty Guille, Stephanie Lillie and Stan O'Dell - successfully defended or obtained dismissals in 23 appeals related to agency administrative decisions. These included driver license suspensions related to DUI and other moving violations.

Nash v. Polonksy, et al. - Matt Herlihy and Joe Acosta successfully preserved a DPS power line easement in a quiet title action.

Significant Matters

PARC v. FHWA/ADOT, 2:15-CV-00893-DJH - Rob Thornton of Nossaman LLP has been appointed outside counsel to represent the State. Mr. Thornton is working with Adrienne Weinkamer and Bill Jameson of TRN. Plaintiffs' suit challenges the sufficiency of the Environmental Impact Statement prepared in regard to the L202 South Mountain Freeway project. Plaintiffs allege federal NEPA violations, including failure to adequately consider air toxics, traffic impacts, wildlife corridors and a host of others. The matter was briefed and argued before Judge Humetewa of the United States District Court. A ruling is expected shortly.

Susan Davis reviewed approximately 300 Intergovernmental Agreements, Interagency Service Agreements, Joint Project Agreements and other contracts.

Cost Savings to the State - Totals

Cost savings to the State resulting from work on eminent domain and construction contract matters by attorneys in the Condemnation Unit, measured by the amount of ultimate settlements or verdicts in comparison to the amounts demanded as just compensation or damages, was \$11,121,823.00.

