

ANNUAL REPORT

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Arizona Attorney General's Office

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The following report is a summary of the work of the Attorney General's Office on behalf of the people of Arizona for FY2017. This comprehensive review showcases the achievements of the dedicated employees of the Attorney General's Office who strive to make a difference in the lives of Arizona citizens, every single day.

I'm proud of the many accomplishments made by the office this year including updating Arizona's anti-terrorism laws making them some of the strongest in the nation, defending Arizona small businesses when they became the target of frivolous lawsuits initiated by serial litigators, and strengthening Arizona's consumer protection laws to maximize their effectiveness against unscrupulous businesses.

It would be impossible to fit every accomplishment of this office in the last fiscal year into one single report. These are just the highlights, but the people we have served know the true breadth of what we have accomplished. Our team has a deep appreciation of the importance of our mission and Arizona citizens have felt the impact of every effort.

For example, in FY2017, the Consumer Protection & Advocacy Section increased pre-investigation consumer recoveries by more than 35% from the previous year. Additionally, the Consumer Information and Complaints Unit recovered a total of \$3,909,737 for consumers throughout Arizona in FY2017, a more than 40% increase over FY2016, and a more than 90% increase over FY2015.

During FY2017, Our Protective Services Section (PSS) attorneys prepared for and/or attended 80,933 court appearances, and represented the Department of Child Services (DCS) in trial a total of 7,765 days. Additionally, thanks to the investment of the Arizona Legislature, PSS trained 53 new attorneys in just one year. PSS supported DCS in protecting more than 19,536 children from abuse and neglect, reunited 3,534 children with their parents, helped place 535 children with permanent guardians, and assisted in the adoption of 3,426 children by relatives or foster parents.

The Fraud & Special Prosecution's Section (FSP), which prosecutes white collar crime and fraud, had 1,167 open cases in FY2017. It resolved 425 of them, charging 492 defendants with felony offenses. FSP assisted approximately 2,278 victims and obtained \$8,927,128 in restitution along with \$157,157 in court ordered fines. Additionally, our Office of Victim Services provided nearly 80,000 services to more than 8,300 victims.

It is a great privilege and an honor to continue to serve as the Attorney General for the State of Arizona. I am so proud of our incredible public servants who make a positive daily impact in the lives of those who need a voice the most.

Respectfully,



Mark Brnovich
Arizona Attorney General



Attorney General Mark Brnovich

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.

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 2016 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 2016 Winners!



Award	Name	Division
2016 Emerging Star	Joshua Barreda Jessica Cooney Megan Hill Ryan Regula Lucia Arteaga Erica Williams Matthew Williams Camille Keltz Eddie Slade Sylvia Luevano Adela Johnson Andrew Reilly	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
2016 Employee of the Year	Veronica Cabral Kim Cundiff Bethany Diaz Travis Williams Dennis Martin Elizette Corona Isabel Schmit	Child & Family Protection Civil Litigation Division Communications Division Criminal Division Operations Division State Government Division Solicitor General
2016 Attorney of the Year	Bonne Platter Shyla Freestone Scott Blake Carrie Brennan Terry Crist	Child & Family Protection Civil Litigation Division Criminal Division State Government Division Solicitor General
Excellence in Service	Mary Applebee Paula Daniels	Operations Division Operations Division
2016 Volunteer Excellence	Walter Nottleman	Civil Litigation Division
2016 Agent of the Year	Madison McDonald	Criminal Division

Employee Recognition

Award	Name	Division
2016 Leadership in Action	Sandy Daniels Kristi Villarreal Rex Don Lawrence Tammy Miller Blaine Gadow James Lamerson Michelle Davis Valerie Marciano Donna Moore Stacy Coleman Linley Wilson	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
2016 Michael C. Cudahy Mentoring Award	Virginia Herrera-Gonzales Aratha Acevedo Dena Benjamin Diane Davenport Christina Moan Nicholas Klingerman Lizette Morgan Daniel Schaack Deborah Sawyer Rob Walsh	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
2015 Career Service	Bonnie Quijada Edward Truman Dean Hochstettler Echo Truex Kim Anderson Connie Lopez John Todd Barb Lindsay	Child & Family Protection Child & Family Protection Civil Litigation Division Operations Division State Government Division State Government Division Solicitor General Solicitor General
2016 Outstanding Team	CFPD Appellate Unit Civil Rights Section Khan Case Facilities Team eDiscovery Committee Civil Appeals Team	Child & Family Protection Civil Litigation Division Criminal Division Operations Division State Government Division Solicitor General

Employee Recognition



Employee Recognition





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.

53RD ARIZONA LEGISLATURE, FIRST REGULAR SESSION

Arizona's 53rd Legislature, First Regular Session began on Monday, January 9th, 2017 and adjourned Sine Die on Wednesday, May 10th, 2017. New leadership teams were installed in both legislative chambers and nearly a third of the legislative seats were occupied by newly elected members. In total, 1,079 bills were introduced between the Senate and the House.

By the end of the 122-day legislative session, the Legislature approved a total of 353 bills, 342 of which were signed into law by the governor. The general effective date for all bills not containing an emergency clause or a delayed effective date was August 9th, 2017.

The Attorney General's Office Communications Division Team closely monitored approximately 300 pieces of legislation, and played a direct role in either advancing or stopping approximately 100 bills that would have had a significant impact on the Office. This effort could not have been successful without the hard work of the Attorney General Office's ("AGO") attorneys and subject-area experts who dedicated countless hours to providing technical feedback and input on hundreds of bills.

Following the successes of the previous legislative session, the Communications Division looked to build on that momentum by focusing on a few key areas: strengthening Arizona's outdated and inadequate anti-terrorism statutes; plugging a gaping hole in Arizona's consumer fraud statutes that allowed unethical moving companies to engage in manipulative business practices; and starting to transfer the Criminal Division from the previous administration's unsustainable dependence on forfeiture revenues to a more fiscally responsible funding source via the general fund.

The following is a brief overview of 2017 legislation that contained priorities for the AGO.

UPDATING ARIZONA'S OUTDATED TERRORISM STATUTES

In 2016, Mahin Khan of Tucson plotted to carry out ISIS-inspired attacks on a state Motor Vehicle Division office, an Air Force recruiting center, and a fitness center. Due to a gaping hole in Arizona's outdated terrorism statute, the AGO could only prosecute Khan for his plan to attack the Motor Vehicle Division office. Existing Arizona law limited the AGO's prosecutorial power to threats against state buildings, which meant that the AGO could not charge Khan for his plans against other public buildings or public spaces.

To address this glaring deficiency in the law, the AGO worked with Senator Warren Petersen and the Legislature to pass Senate Bill 1350. The bill enhances the state's terrorism laws to encompass more crimes, including plots and attacks on all public spaces and adds a mandatory minimum sentence. As a result, Arizona now has one of the most forward-thinking anti-terrorism statutes in the country.

PROTECTING ARIZONANS FROM UNSCRUPULOUS MOVING COMPANIES

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.

ASSET FORFEITURE REFORM & ADDITIONAL CRIMINAL DIVISION RESOURCES

Expanding upon public comments calling for civil asset forfeiture reform made by Attorney General Mark Brnovich in the Fall of 2015, the AGO participated in numerous stakeholder meetings concerning House Bill 2477. Comprised of a diverse group of reformers, law enforcement agencies, and prosecutors, most consider the final product a compromise that was a positive step towards advancing property rights and curbing potential abuses of the system.

The legislation implements a number of reforms and new requirements including greater transparency via reporting and audits, limitations in the forfeiture process, and raising the burden of proof from a preponderance of evidence to a clear and convincing standard.

The forfeiture reform legislation presented an opportunity for the AGO to address the Criminal Division's RICO funded employee positions. Over the past decade, lacking a growth in the dedicated general funds from the Legislature for the Criminal Division, the AGO had begun an unsustainable trend of funding critical investigative and prosecutorial positions with asset forfeiture proceeds. However, with the new administration change in 2015, a reduced emphasis had been placed on forfeiture related actions, so the proceeds had dwindled.

Simply put, without significant funding and accounting changes, the AGO's RICO-funded commitments would soon outgrow its collections and therefore require significant layoffs in the very near future. To that point, in FY2010, the Office funded just 22 positions through RICO funds. From FY2011 to FY2014, the previous Administration increased that number to 50, creating an unsustainable revenue shift.

To alleviate this emergent problem, the AGO worked with legislative leadership to identify a dedicated funding source for the Criminal Division. While the fix is temporary, the AGO secured an additional \$1.5 million line-item appropriation for the Criminal Division for FY2018, 2019, and 2020. Through a combination of the new funding and responsible fiscal management by the AGO, the current administration has decreased the number of RICO funded positions to 29.25 in just one fiscal year, with an eye toward further decreasing that number in the immediate future.

OTHER BILLS OF INTEREST

Other key pieces of legislation advanced by the AGO included:

House Bill 2269 (victims' rights; requirements; monetary judgments): Improved Arizona Victims' Rights statutes to enhance restitution procedures.

House Bill 2373 (tobacco settlement; Indian tribes; information): Provided the AGO's Tobacco Enforcement Unit with greater flexibility to enforce Arizona's tobacco statutes and the Tobacco Master Settlement Agreement.

Senate Bill 1342 (search warrants; tracking; simulator devices): Created a statutory framework for law enforcement in securing warrants to utilize new technologies to investigate suspected criminals while ensuring an individual's personal privacy rights are not violated.

Senate Bill 1370 (elections; unlawful voting; residence): Outlined additional offenses classified as illegal voting to strengthen the integrity of elections in Arizona.

COMMUNITY OUTREACH

The Community Outreach Section (“Community Outreach”) of the AGO is committed to protecting Arizona and its citizens through prevention programs and education. Outreach provides tools and resources for seniors, parents, youth, schools, veterans, and law enforcement. It also provides presentations and programs designed to increase community awareness on important topics such as internet safety, consumer scams, identity theft, suicide prevention, alcohol literacy, scams targeting seniors, human trafficking, and cyber-bullying.

Community Outreach conducted almost 450 statewide presentations to nearly 49,000 children, seniors, and adults in FY2017. Additionally, Community Outreach hosted informational tables at more than 60 community events reaching another 18,000 individuals. Since January 2015, Community Outreach has conducted approximately 1,500 statewide presentations to 122,000 attendees.

Additionally, Community Outreach provides free “shred-a-thons” for local communities to encourage Arizonans to avoid identity theft by safely disposing of documents containing personal information. In FY2017, Community Outreach held three shred-a-thons in three different Arizona counties. It is estimated that Community Outreach helped destroy nearly 15,000 pounds of sensitive information.

To request a presentation from the Community Outreach, please call (602) 542-2123.



Solicitor General Dominic Draye

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 second full year of operation, the Federalism Unit led a coalition of 10 States in a challenge to onerous regulations promulgated by the U.S. EPA. See "Ozone NAAQS" highlight. The Federalism Unit also won an important victory before the Arizona Court of Appeals concerning whether DACA recipients are entitled to in-state tuition. See "MCCCD" highlight. At the time of this Annual Report, the Federalism Unit has two pending petitions for certiorari with the United States Supreme Court, both of which were featured on SCOTUSblog.com and garnered national amicus support. See "Arizona Dream Act Coalition" and "Martinez" highlights.

Section Highlights

Ozone NAAQS – During the past year, the Federalism Unit completed briefing on a petition for review of EPA's 2015 National Ambient Air Quality Standard (NAAQS) for ozone. A week before the case was scheduled for oral argument in the U.S. Court of Appeals for the District of Columbia Circuit, EPA announced that it would reconsider the challenged rule and asked the court to hold the case in abeyance. The reasons given for the reconsideration largely tracked the arguments Arizona made in briefs on behalf of itself and ten other States

concerned about the role of background ozone that States are powerless to control. Going forward, EPA is providing updates every 90 days. If oral argument is rescheduled, the Federalism Unit will again prepare to represent the coalition of petitioners—both the States and numerous industry groups—who believe the standard was set in a way that failed adequately to account for background ozone.

WOTUS – Another multi-State effort in the area of environmental law challenges the federal government'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. The Supreme Court has now granted certiorari to consider whether the circuit or district courts have jurisdiction over a challenge of this sort.

Identity Theft – In last year's annual report, the Federalism Unit reported its success before the Ninth Circuit in *Puente Arizona v. Arpaio*, a case challenging Arizona's employment-related identity theft and forgery laws under the Constitution's Supremacy Clause. Following that victory, the case returned to the district court for consideration of whether certain applications of those laws might be preempted even if the entire statutes are not. Following additional briefing and oral argument, the court concluded that only a very minor application of the laws might be impermissible. While the State considers aspects of this narrow victory for the plaintiffs incorrect, the overall outcome in this case has been favorable for protecting Arizonans' identities. A fee application is currently pending, and the parties will then need to determine whether to appeal any portion of the district court's decision.

Arizona Dream Act Coalition v. Brewer – On April 5, 2016, the Ninth Circuit held that federal preemption requires Arizona to issue drivers' licenses to persons covered by the Deferred Action for Childhood Arrivals (DACA) program. Although the Ninth Circuit denied the State's request for rehearing *en banc*, Judge Kozinski (joined by five other judges) authored a blistering dissent from denial. Armed with this dissent, the State filed a petition for review to the United States Supreme Court on March 29, 2017. This petition was supported by four cert-stage amicus briefs, including a state brief joined by a fourteen-State coalition. On June 26, 2017, the Court took the rare step of asking for the views of the United States Solicitor General before deciding whether to grant review.

State ex rel. Brnovich v. Maricopa County Community College District – The Arizona Court of Appeals adopted the State's positions and held that DACA recipients are not entitled to in-state tuition under Arizona and federal law and that the Arizona Attorney General had authority to initiate the lawsuit to stop the Maricopa County Community College District from granting in-state tuition in violation of federal and state law.

Texas v. United States – The Federalism Unit represented the Arizona Department of Education and the Heber-Overgaard Unified School District as part of a 13-State coalition challenging the May 13, 2016 Guidance issued by the Department of Justice and the Department of Education. This guidance stated that Title IX requires schools across the country to allow students to use bathrooms and other intimate facilities based on their gender identity. On August 21, 2016, the district court granted the coalition's request for a nationwide injunction. The federal government voluntarily dismissed its appeal of this injunction.

Arizona v. Martinez – The State filed an amicus brief to the Arizona Supreme Court to uphold the constitutionality of Ariz. Const. art. II, § 22(A)(1), which denies bail when, after an evidentiary hearing, a judge finds "the proof evident or the presumption great" that a person has engaged in sexual conduct with a child. On February 9, 2017, the Arizona Supreme Court held this law unconstitutional. The State then assumed representation of the State from the Maricopa County Attorney's Office and filed a petition for certiorari to the United States Supreme

Court on June 9, 2017. The petition was supported by a cert-stage amicus brief joined by both local and national victims' rights organizations.

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 2017, the Criminal Appeals Section and Capital Litigation Section worked to uphold the convictions and sentences of criminal defendants in Arizona. The Sections filed 841 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.

- The Criminal Appeals Section consists of 26 attorneys.
- The Capital Litigation Section consists of 14 attorneys.
- Support staff for both sections consists of 14 members.

Section Highlights

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.

Major Accomplishments – Criminal Appeals Section

After a couple of high turnover years, fiscal year 2017 was a year of relative calm. We added two new attorneys during the year to assist in dealing with the heavy caseload. The caseloads of the attorneys in CAS remain high, but more manageable. Productivity is also improving as new attorneys grow into their work. The quality of the work remains high.

There were numerous successes, and a few disappointing results, during fiscal year 2017. The following published opinions are illustrative of the successful cases.

State v. Holle – CAS successfully defended a statute placing the burden of proving lack of “sexual motivation” on the defendant in child molestation and sexual abuse prosecutions. In a 3-2 decision, the Arizona Supreme Court held that it was not unconstitutional to place that burden on the defendant because it was not an “element” of the crimes, but an affirmative defense.

State v. Maciel – The Arizona Supreme Court agreed with our assertion that, although the defendant was under investigatory detention and, therefore, “in custody” under the Fourth Amendment he was not “in custody” under the Fifth Amendment because officers’ “curbside questioning did not present ‘inherently coercive pressures’ comparable to the station house questioning in *Miranda*.” Thus, the officers were *not* required to advise him of his *Miranda* rights prior to questioning. This is an important case because many trial court and appellate court judges do not distinguish between Fourth and Fifth Amendment “custody.” It should result in the admission of more incriminating statements and confessions.

State v. Dalton – CAS successfully obtained review and reversal of a court of appeals opinion holding that it was fundamental, prejudicial error for a trial court to fail to instruct a jury to “begin deliberations anew” after a deliberating juror was replaced by an alternate juror after the jury had begun deliberations. The Arizona Supreme Court found that the failure to give the instruction was “fundamental error,” but that the defendant failed to carry *his* burden of proving prejudice, holding “any suggestion that the substitute juror did not fully deliberate is simply speculation and improperly ignores the substitute juror’s affirmation statement [during juror polling] that the verdict of guilt represented her true individual verdict.”

State v. Causbie – CAS successfully defended the provision of the sexual assault statute which provides that sexual intercourse is “without consent” if the victim is “incapable of consent by reason of . . . alcohol . . . and such

condition is known or should have been reasonably known to the defendant.” The court of appeals rejected the defendant’s claim that the language in the statute was unconstitutionally “vague.”

State v. Hernandez – CAS successfully convinced the court of appeals *not* to limit—as some states have—“hot pursuit” of a motor vehicle onto private property to serious felony offenses. In this case, law enforcement officers attempted to initiate a traffic stop for canceled insurance. The defendant did not stop and turned into a private driveway and around to the backyard area of his girlfriend’s house. The officers followed. An officer approached the defendant’s vehicle and smelled marijuana. A search of the vehicle and defendant resulted in the seizure of illegal drugs and paraphernalia. In a 2-1 decision, the court held that it was reasonable for the officer to follow the defendant onto private property, noting that the officers were in “continuous pursuit” of the vehicle and that “investigation for a violation of law cannot be arbitrarily stopped by the person’s entry onto private property. Any contrary rule would encourage flight to avoid apprehension, identification, and prosecution.”

Major Accomplishments

The Capital Litigation Section’s attorneys effectively litigated a tremendous number of complicated, high-stakes, high-profile capital cases in state and federal court during the last fiscal year. The Section’s workload remains heavy, but continues to be 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 cases pending in state post-conviction proceedings. However, the number of cases pending in superior court on post-conviction has declined from 50 at the time of last year’s annual report to 32. This decline corresponds to an increase in federal habeas petitions, a trend that will continue in the coming years and create additional challenges for the Section.

A. Execution Update

Executions in Arizona were stayed by court order in 2014 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 sued Arizona Department of Corrections (ADC) personnel under 42 U.S.C. § 1983. That lawsuit, however, was settled this fiscal year after ADC adopted a lethal-injection protocol that is mutually acceptable to ADC and the plaintiffs. As a result, there is no *legal* impediment to resuming executions in Arizona. However, there is a *practical* impediment: ADC lacks the chemicals necessary to carry out executions, has been unable to replenish its supply of chemicals due to a nationwide shortage, and is unlikely to obtain chemicals in the foreseeable future in light of the federal government’s position on importing them. If and when chemicals are obtained, 10 inmates have exhausted their of-right appeals and are ready to be executed. One additional inmate has recently been denied relief by the Ninth Circuit; unless the Ninth Circuit takes the case en banc or the United States Supreme Court intervenes, that inmate should also be eligible for execution by the end of 2017.

B. Cases in the Ninth Circuit Court of Appeals

In the last few years, the Ninth Circuit remanded 19 Arizona federal habeas appeals to district court for further consideration under *Martinez v. Ryan*, 132 S. Ct. 1309 (2012). A few of these “*Martinez motions*” have been dismissed, but evidentiary hearings were granted for two of them; the rest are still awaiting rulings. In addition, the Ninth Circuit stayed several appeals pending the Supreme Court’s resolution of Arizona’s certiorari petition in *McKinney v. Ryan*, 813 F.3d 798 (2015) (*en banc*), 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. The Supreme Court denied Arizona's certiorari petition this fiscal year, and the Ninth Circuit thereafter lifted the stays on most of these cases. However, as a result of the delays caused by *Martinez* and *McKinney*, the Ninth Circuit decided only a handful of Arizona capital cases in the last fiscal year. The court affirmed the denial of federal habeas relief in the following two cases:

Eric Mann v. Charles Ryan (en banc) – In 1989, Mann arranged to sell cocaine to two men for \$20,000. When the men arrived at his home, however, Mann killed them both and kept the money. In 2014, a three-judge panel of the Ninth Circuit found that Mann had received ineffective assistance of counsel at sentencing, reversed the district court's order denying habeas relief, and granted the writ as to Mann's sentence. Rehearing the case en banc, the court disagreed with the three-judge panel, found that Mann had not proven his claim under the Anti-terrorism and Effective Death Penalty Act's highly-deferential standards, and affirmed the district court's denial of habeas relief. Mann has now exhausted his appeals and is eligible to be executed.

Richard Greenway v. Charles Ryan – In 1988, Greenway burglarized a Tucson home and murdered a woman and her teenage daughter. The Ninth Circuit rejected a number of Greenway's appellate claims in 2011, but remanded for the district court to consider his allegations that counsel was ineffective at trial and on appeal. The district court denied relief on those ineffective-assistance claims and, this fiscal year, the Ninth Circuit affirmed that denial. After the end of the fiscal year, the court issued a supplemental opinion denying relief under *McKinney*, thereby resolving all of Greenway's appellate claims. Assuming the Ninth Circuit denies rehearing and the Supreme Court denies certiorari, Greenway has exhausted his appeals and is ready for execution.

C. Arizona Supreme Court

The Arizona Supreme Court decided few capital cases this fiscal year when compared to previous years. The court, however, resolved the following two notable cases in the State's favor:

State v. Darrel Peter Pandeli – A serial killer, Pandeli murdered Holly Iler in 1993 and discarded her nude, mutilated body in a Phoenix alley. He had previously murdered Theresa Humphries and left her body on a roadside in central Phoenix. Pandeli was convicted of first-degree murder for killing Iler and second-degree murder for killing Humphries, and was sentenced to death for Iler's murder. A decade after the jurors returned their death verdict, however, a post-conviction judge granted relief on several ineffective-assistance claims and set aside Pandeli's sentence based on scant supporting evidence and confusing factual findings. The Arizona Supreme Court granted our petition for review, reversed the judge's ruling, and reinstated Pandeli's death sentence. In its opinion, the court emphasized the requirement that post-conviction courts make specific factual findings and apply *Strickland v. Washington's* deferential standard to ineffective-assistance claims.

State v. Abel Hidalgo – Hidalgo accepted \$1,000 from a gang member to murder Michael Cordova. Hidalgo succeeded at his mission, killing not only Cordova but also a bystander, Jose Rojas. Hidalgo fled Arizona and was later arrested in Idaho after committing two additional murders there. He pleaded guilty to killing Cordova and Rojas, and a jury sentenced him to death for each murder. Hidalgo presented several issues on direct appeal. Most notably, he challenged Arizona's capital-sentencing scheme on the ground that it 1) contains too many aggravating factors and thus does not narrow the class of defendants eligible for death, and 2) results in the arbitrary imposition of the death penalty because less-wealthy counties lack the resources to pursue capital punishment. The Arizona Supreme Court rejected these arguments, and all others Hidalgo raised, and affirmed his convictions and death sentences.

D. Cases in Superior Court

State v. Pete VanWinkle – VanWinkle murdered fellow inmate Robert Cotton at the Maricopa County Jail. In full view of jail cameras, VanWinkle beat, strangled, and stomped Cotton for 18 minutes, taking several breaks to rest and clean the blood from his hands. After the Arizona Supreme Court affirmed his convictions and sentences, VanWinkle sought post-conviction relief, alleging that his counsel was ineffective for failing to investigate and present mitigating evidence at sentencing. Following a complicated, 7-day evidentiary hearing involving several expert witnesses and numerous fact witnesses, Judge Paul McMurdie issued an 88-page ruling denying relief based on detailed findings of fact and conclusions of law.

E. Lethal-injection litigation

First Amendment Coalition v. Ryan – As mentioned above, a group of media outlets and death-row inmates sued ADC personnel in 2014 under 42 U.S.C. § 1983, alleging that Arizona's lethal-injection protocol violates various constitutional provisions, including the First, Eighth, and Fourteenth Amendments. During the last fiscal year, the judge dismissed several claims under Federal Rule of Civil Procedure 12(b)(6) and, this fiscal year, the Section settled the remaining claims based on ADC's publication of a mutually-agreeable lethal-injection protocol. This settlement cleared the way for executions to resume in Arizona in the event ADC successfully procures lethal-injection chemicals.

AGO Civil Appeals and Elections Section

Section Highlights

The following report of the Solicitor General's Office relates to the Civil Appeals and Elections Sections, Attorney General Opinions, Ethics, and the Law Library which consist of the following team members:

- Civil Appeals. Civil Appeals has two appellate attorneys and a part-time appellate attorney for DES matters.
- Elections. The Elections team consists of two attorneys.
- Opinions and Ethics. We have one attorney who oversees the Attorney General Opinion committee and advises the office on ethics matters.
- 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 2017. Civil appellate attorneys reviewed 493 appellate briefs spanning work in Arizona state appellate courts (406 briefs), the Ninth Circuit Court of Appeals (37 briefs), the United States Supreme Court (2 briefs), and other courts (48 briefs). SGO attorneys also participated in 35 moot court exercises.

A. United States Supreme Court Practice

Arizona Secretary of State's Office v. Feldman – In this matter, the Supreme Court stayed the Ninth Circuit's injunction staying Arizona's law prohibiting third parties from collecting early ballots and delivering the ballots to election officials for counting. The Ninth Circuit had enjoined Arizona's election law on the eve of the 2016 general election and the Supreme Court unanimously reversed that last-minute interference with the election in Arizona.

PM-10 Implementation Plan – In *Bahr v. United States*, a group of environmentalists challenged EPA's approval of Arizona's implementation plan for a NAAQS governing particulate matter. At issue is whether EPA can approve a plan that includes "contingency measures" that the State has voluntarily implemented before implementation became mandatory. Arizona and EPA argued that such early implementation is permissible and even advances the purpose of the Clean Air Act, while the environmentalists insisted that the plan include other, new contingency measures. The case went to the Ninth Circuit, which accepted the environmentalists' argument in a 2-1 decision that noted its departure from the Fifth Circuit on the same legal question. SGO has now filed a petition for writ of certiorari in the Supreme Court, with air regulators from the Los Angeles area participating as amici in support. A decision on the petition will likely arrive in October 2017.

Wolfson v. Concannon – Wolfson filed a petition for certiorari asking for review of the unanimous Ninth Circuit en banc decision, 811 F.3d 1176 (9th Cir. 2016), upholding five provisions of the Arizona Code of Judicial Conduct. The Supreme Court denied review.

B. Ninth Circuit Court of Appeals Practice

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. In a published decision, the Ninth Circuit affirmed the district court decision, holding that Arizona's statute imposed no more than a de minimis burden on plaintiffs' First and Fourteenth Amendment rights and that the statute served important regulatory interests. 838 F.3d 983 (9th Cir. 2016).

Feldman v. Reagan – In this lawsuit, the Democratic Party and other plaintiffs challenged certain Arizona election practices and laws including a new law concerning who may handle early ballots or deliver them 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. The district court denied plaintiffs' request for preliminary injunctive relief, both as to HB 2023 and out-of-precinct voting. The plaintiffs filed an expedited appeal. The Ninth Circuit affirmed in two published opinions, No. 16-16698, 2016 WL 6427146 (9th Cir. Oct. 28, 2016) (HB 2023) and No. 16-16865, 2016 WL 6472060 (9th Cir. Nov. 2, 2016) (out-of-precinct voting). The court *sua sponte* granted en banc review on both cases and stayed the lower court's ruling with respect to HB 2023. Arizona then sought an emergency stay in the Supreme Court. The Court issued the stay in time to allow HB 2023 to remain in effect for the 2016 election. The case is currently pending in the district court.

Malnes v. State – Plaintiff alleged that Arizona's felon disenfranchisement statute violated his Fifteenth Amendment rights. The district court dismissed the lawsuit, and the Ninth Circuit affirmed.

Additionally the Solicitor General's Office participates in all federal 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, § 1983, preemption, and federal constitutional law.

C. Arizona Appellate Court Practice¹

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 were 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. The Arizona Supreme Court granted review, allowed supplemental briefing, and held argument. It then vacated the court of appeals decision but held that employer payments to a deferred compensation plan were compensation for purposes of calculating retirement benefits and awarded plaintiffs attorneys' fees.

Stambaugh v. Killian – The SGO worked with Agency Counsel Section to prepare the court of appeals and supreme court briefs and prepare for argument on this case involving the interpretation of Arizona's branding statutes. The court of appeals held that A.R.S. § 3-1261(B) permitted the Department of Agriculture to consider a brand's location on the animal in determining whether two brands are of the same design and figure, upholding the Department's interpretation. The supreme court reversed, holding that A.R.S. § 3-1261(B) precludes the Department from adopting or recording identical brands even if one brand is located on the left hip and the other brand is located on the left rib.

The Solicitor General's Office also participates in all 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, employment, torts, juvenile law, administrative law, and workers' compensation.

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.

D. Upholding Arizona Election Laws and Practices

In fiscal year 2017, 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.

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 first denied preliminary injunctive relief as to both challenges and on cross-motions for summary judgment denied permanent injunctive relief. The plaintiffs have appealed to the Ninth Circuit.

Project Vote v. Reagan – The plaintiff challenged the Arizona statute that dictates what the Secretary of State and the fifteen counties may charge for voter-registration data. After the Legislature amended the statute based on SGO's legal analysis, SGO negotiated a very favorable settlement: the Secretary only had to promise to follow the law and plaintiff agreed to waive any claim to attorneys' fees.

Madonna v. Arizona – In this lawsuit, plaintiffs challenged Arizona's new law regulating citizen initiatives in Maricopa County superior court. The plaintiffs alleged that the new law, which requires courts to determine whether proposed initiatives strictly comply with the requirements for initiatives, violates separation-of-powers principles. After a two-day trial, the superior court dismissed the lawsuit, holding that it was premature and that plaintiffs lacked standing.

Arizona Democratic Party v. Reagan — The SGO represented the Secretary of State when Plaintiff Arizona Democratic Party sued to require elections officials to count the votes of registration applicants who had registered to vote the day after the voter registration deadline had passed. The voter registration deadline in 2016 fell on Columbus Day, a state and federal holiday. At the time, state law required voters to be registered twenty-nine days before an election and made no allowance for holidays, but the National Voter Registration Act requires voters to be able to register by mail and at the Motor Vehicle Division up to and including thirty days prior to the election. Due to Plaintiff's delay, the SGO had less than twenty-four hours to prepare for and hold the trial in district court. The court ruled in favor of the Secretary based on laches, and the legislature has since amended Arizona law to allow voter registration deadlines to be moved back a day if the deadline falls on a legal holiday.

E. 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.

F. 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.

G. 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.

H. 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, provided ongoing advice on matters related to voter registration and election administration to the Secretary of State's Office, and led several election law training sessions for county recorders and other county elections officials.

Attorney General Opinions

The Solicitor General's Office coordinates the drafting and publication of Attorney General opinions. In fiscal year 2017, the Attorney General received 19 opinion requests and issued 6 formal opinions. Those opinions addressed topics including limitations on Constables' rights to carry firearms; advisory model policy for law enforcement applying SB 1070; transferring credits between charter schools and district schools; Board of Technical Registration jurisdiction over Trained Geologists; registered nurse practitioners' authority to order and interpret radiographic tests; and the application of the "resign to run" law to an elected, salaried official applying to the Governor for appointment to the Superior Court bench.

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.

The importance of AGO law library communications with its patrons increases as we move from a predominantly

physical library to a predominantly electronic or “virtual” law library. To aid in this communication, the AGO law library now circulates an AGO Law Library newsletter to Office researchers. The newsletter serves to answer commonly asked questions, points users to training materials posted on the AGO virtual law library, and keeps patrons informed of new legal research trends and tools.

The Office’s transition from printed research materials to largely electronic materials is reflected in the degree of physical library usage and interactions. Both library interactions and physical law library usage by AGO researchers decreased by 1.5% in fiscal year 2017. Budget monies spent on both print and electronic materials also decreased. The cost of providing the bulk of AGO law library electronic resources will remain below 2011 and 2012 contract expenditure levels through contract year 2018.

Ethics

During fiscal year 2017, 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 programs.

OMLET

The AGO’s Open Meeting Law Enforcement Team (OMLET) consists of attorneys from every division in the Attorney General’s Office and focuses on investigating and enforcing Arizona’s open meeting laws. In fiscal year 2017, the team consisted of 15 section chiefs who were responsible for assigning OMLET complaints to attorneys within their sections.

In fiscal year 2017, the team opened investigations of 43 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 55 public bodies. Presently, there are investigations open against 54 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.



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

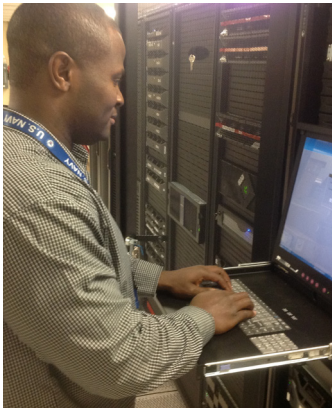
The Operations Division is made up of Human Resources, Procurement, Facilities Management & Planning, Budget/Financial Services and Information Services.

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

Criminal Complaint In-take and Management System – The AGO released and awarded an Request for Proposal (RFP) to contract with a vendor to provide a computer system that can effectively manage its investigative resources to triage and evaluate incoming criminal complaints. The AGO detailed the scope of the project in a project investment justification (PIJ) document that was approved to spend \$234K to purchase and deploy a complaint in-take and management system. The new system was deployed for production use, and is being utilized the Special Investigations Section to track and manage criminal complaints and any subsequent investigations.



Technology Assisted Review (TAR) – After receiving approval on a PIJ, the AGO released and awarded an RFP to procure predictive coding technology to assist with efficiently and accurately locating relevant case documents when the total pool of case documents exceeds a million pages. The AGO detailed the scope of the project in

the approved PIJ. The AGO purchased and installed Ipro Eclipse, and trained staff to employ data analytics and statistical modeling to effectively locate relevant documents in a very large pool of electronic discovery. This technology has been made available to the entire community of AGO legal staff for cases where the volume of discovery would make it difficult to effectively identify relevant material using traditional keyword searching techniques.



Forensics Lab – The Health Care Fraud and Abuse section (HCFA) identified funding to provide its agents with modern digital forensic tools to effectively process and analyze the several terabytes of evidentiary data that is collected on an annual basis. A PIJ was submitted and approved for this project. ISS implemented a digital forensics capability for the HCFA agents for an initial investment of \$305K and regular annual maintenance costs of \$30K.



Do Not Call Registry – ISS assisted legal staff identifying violation counts of the Federal Do Not Call (DNC) registry. There are currently 5 million Arizona phone numbers registered with the DNC. ISS developed a search tool that compares the call logs of telemarketing firms for any violations of the DNC registry. ISS processed 10.1 million telemarketing call records against the DNC registry and was able to identify nearly 1.5 million Do Not Call violations. ISS is now getting requests for technical support from the AG offices in Ohio and Indiana on how they can replicate our process.

Auto Document Generation – ISS developed a system to auto-generate 40 different legal documents on-demand based upon database records stored in the AGO legal case management system. This auto-generation feature saves hundreds of man-hours of manual document editing every month, and enables legal staff to turn around document generation requests within minutes as opposed to hours.

Human Resources Section

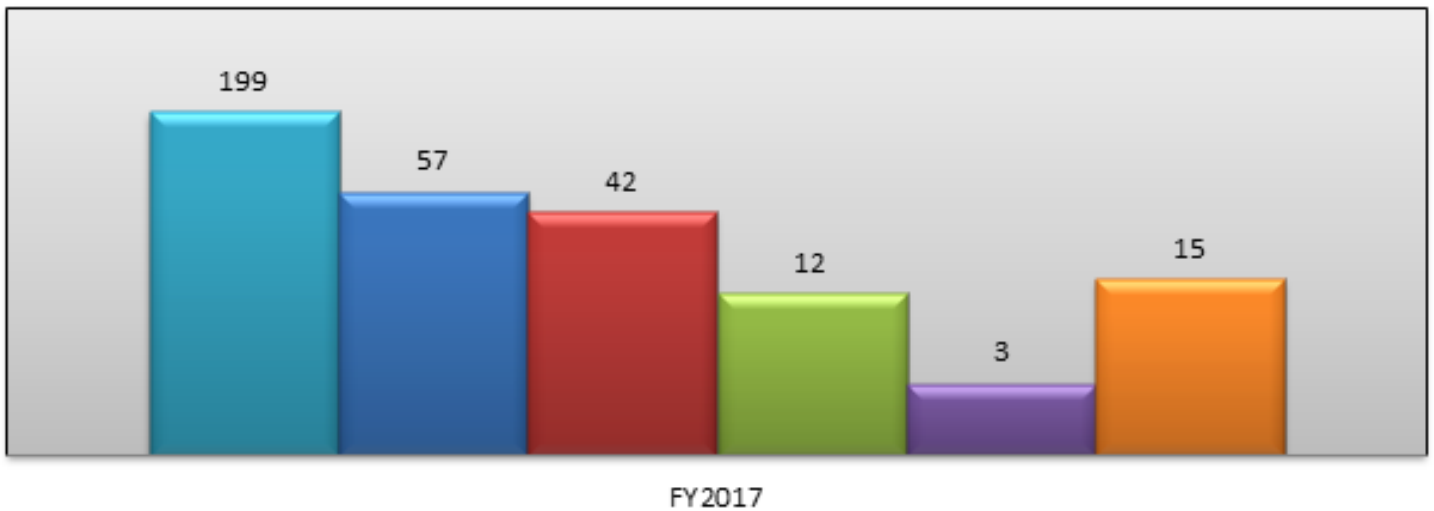
The Human Resources Section (HRS) oversees all activities necessary to develop, support and manage the Attorney General's workforce-from recruitment through retirement. The section strives to provide high quality customer service to all prospective, current and past employees. Human Resources supports 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.

Overview of Accomplishments

- Annual Employee Awards Event
- Benefit Open Enrollment and Wellness events
- EEO Plan
- Expansion of Internship and Volunteer Programs
- Implementation of the State's new Learning Management System for employee training
- Merit Incentive Program for FY2017
- Participation in AGO101 CLE training
- PSPRS Cancer Insurance Program reporting and invoice payment
- PSPRS Local Board Secretary duties
- PSPRS Pension Reform
- Public Records Requests
- Recruitment and hiring of 40 new Child and Family Protection Division positions within the timeline of special funding
- Relocation of new hire fingerprint process to Human Resources
- Streamlining of new hire background process
- Worker's Compensation Reporting (OSHA); Centralization and streamlining of Worker's Compensation claim reporting/processing

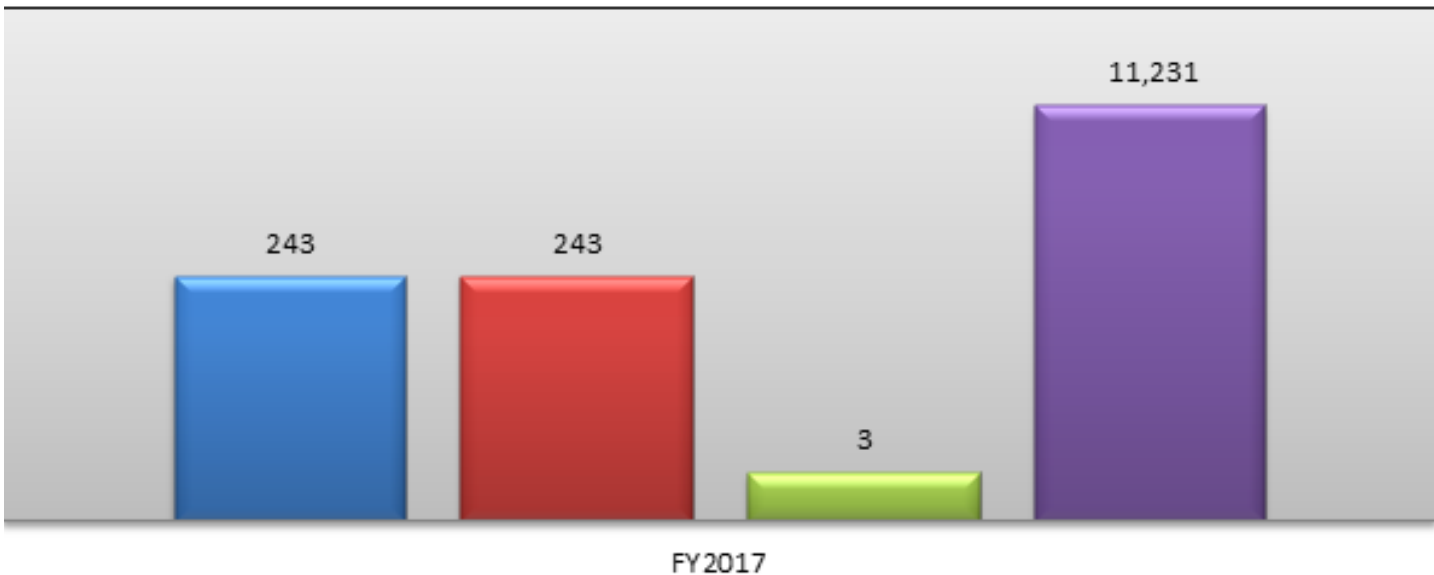
Onboarding

- # of New Employees
- # of Law Interns
- # of Undergrad Interns
- # of Volunteers
- # of Paid Interns
- # of Temp Employees



Recruitment

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

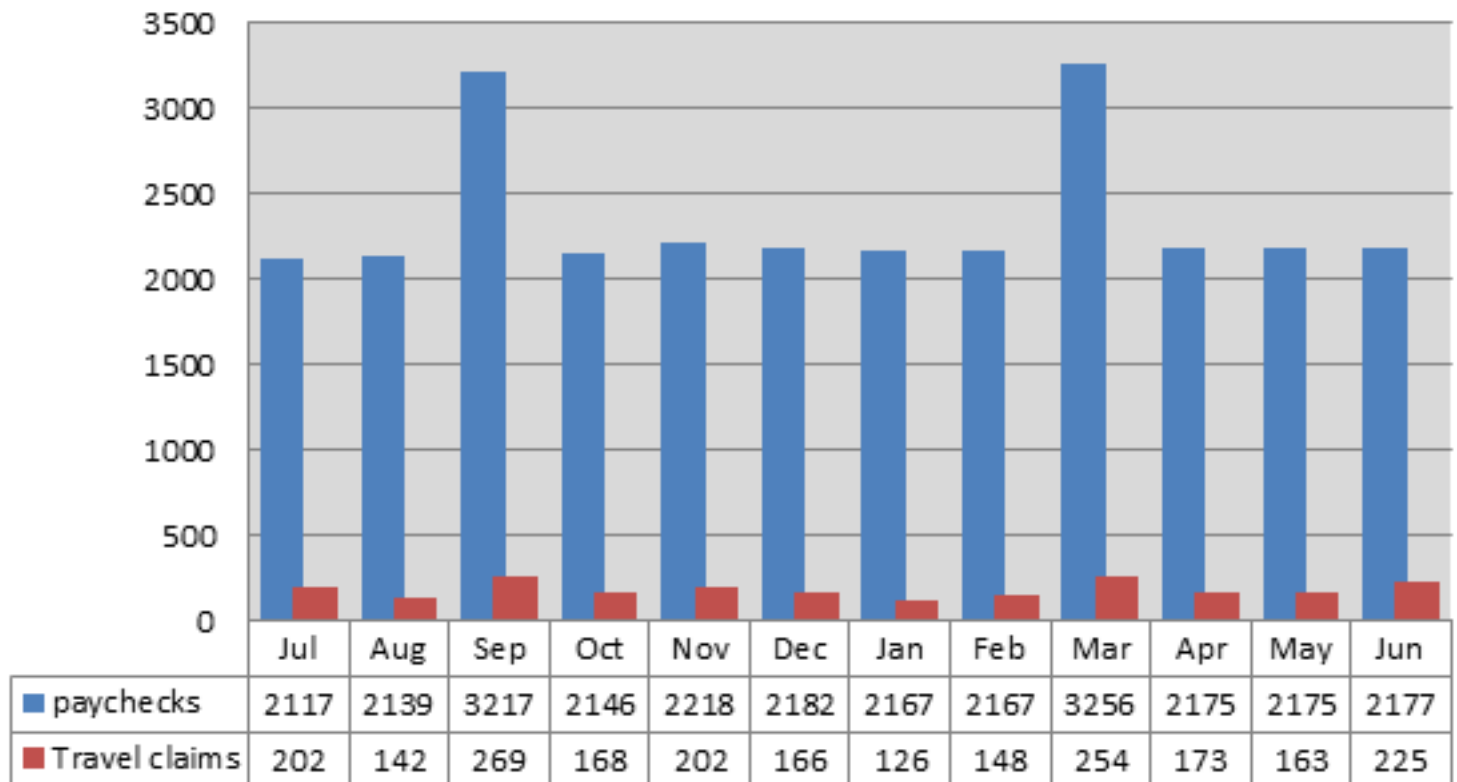


Budget & Finance Section

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.

- Payroll issued 28,186 paycheck to employees and 2,238 travel & employee reimbursements
- Accounts Payable paid out \$29,650,323.11 to vendors in FY17
- 2259 transfers were completed between the AGO and other state Agencies
- 9,789 Deposits processes totaling more than \$52 million dollars.

FY17 Paychecks Issued and Travel & Employee Reimbursement Processed



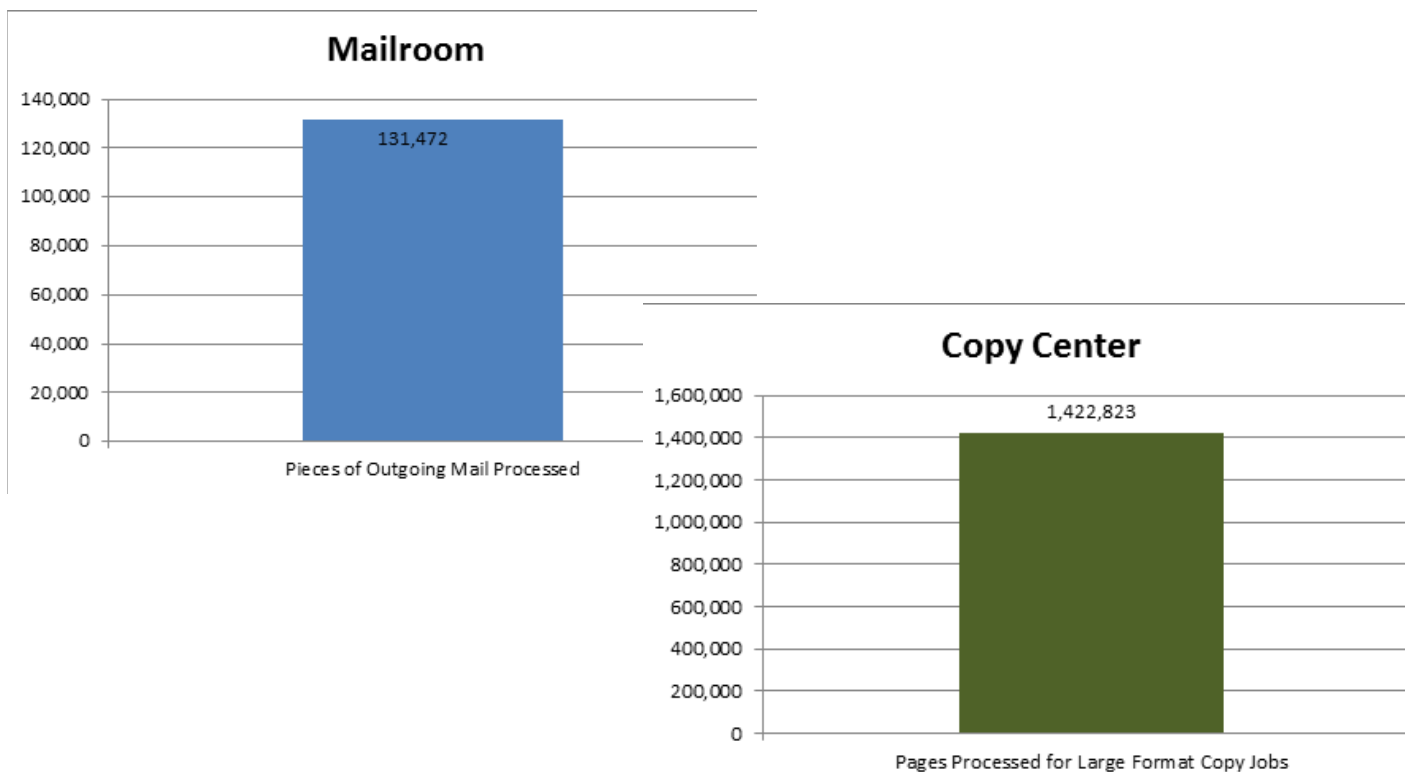
Facilities Management & Planning Section

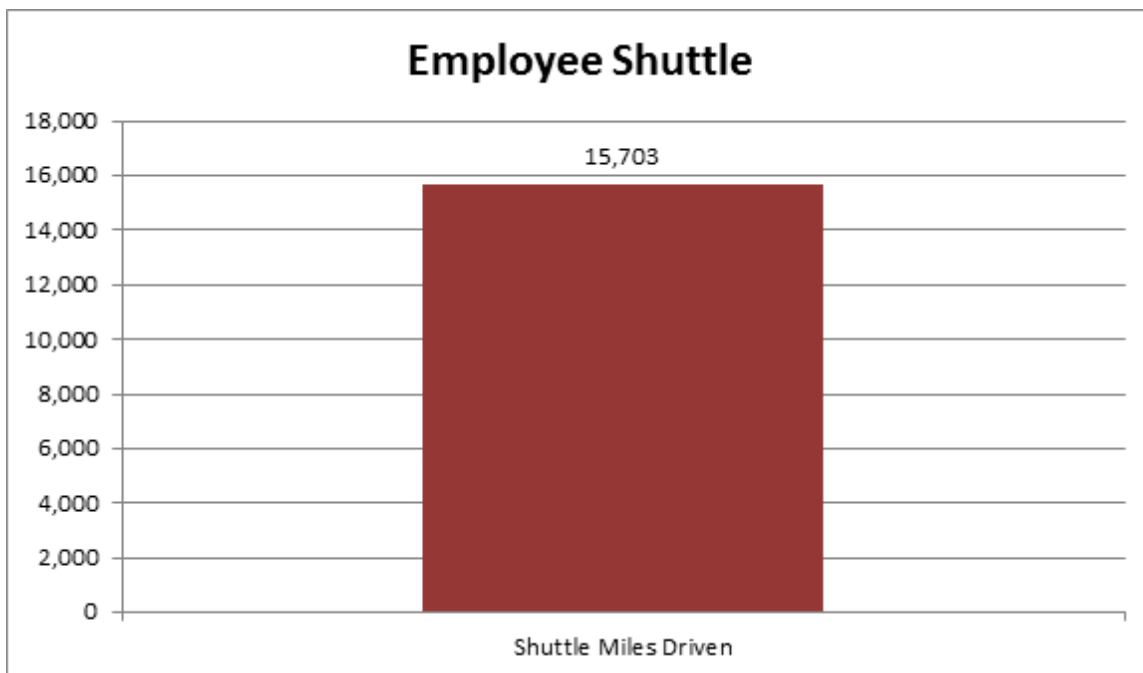
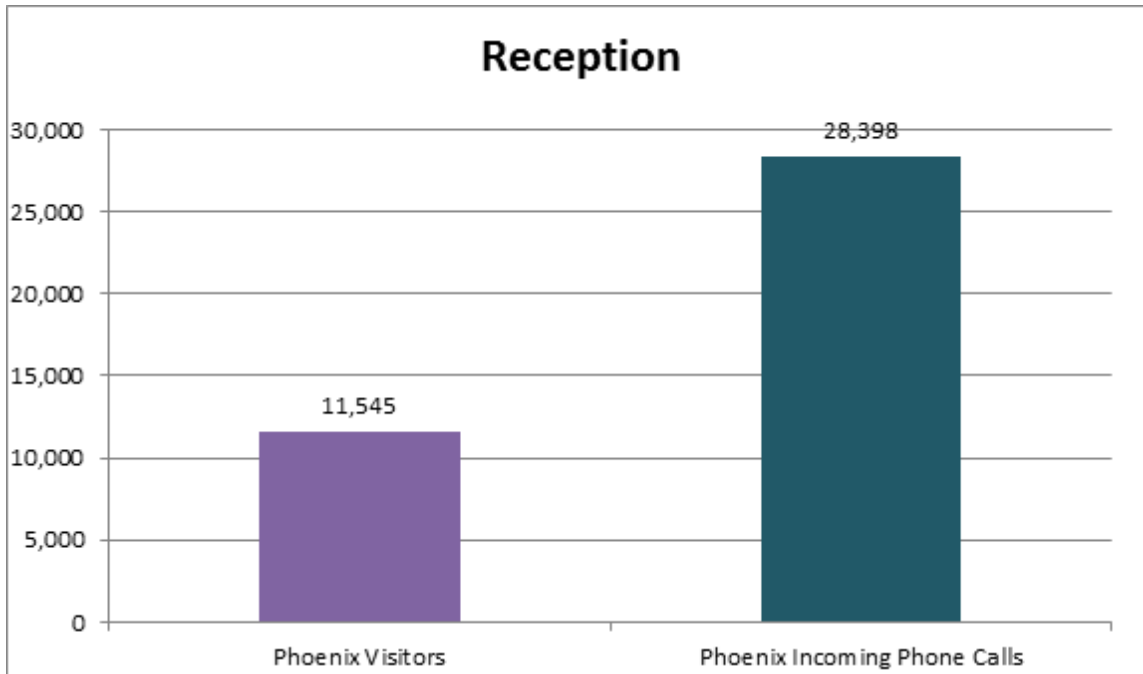
The Facilities Management and Planning Section manages the day-to-day operations and maintenance of the agency's occupied buildings and office spaces. Primary areas of focus include:

- Daily operations: Coordination of maintenance/building renewal, tenant improvement projects, surplus, agency fleet vehicles, parking assignments, employee move/furniture requests and telecommunications service requests across the agency as well as consultation with division management in the area of space planning.
- Safety and security: The program development and system oversight to include 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.

2017 Accomplishments

- Relocation of Liability Management Section in Tucson to the Tucson State Complex building
- Improved safety and security in Phoenix buildings by adding new security cameras, renewal updates to parking garage and building elevators as well as a major renovation to the lobby restroom





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.

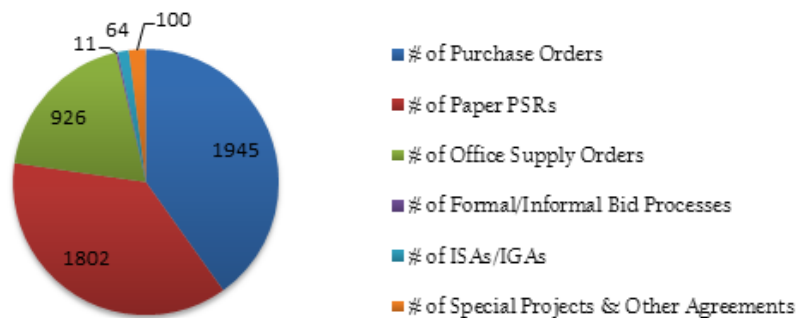
Responsibilities Include:

- Cellphone Administrator
- P-Card Administrator
- ProcureAZ Administrator
- Office Supply Account Administrator
- Procurement Services:
 - Approve All AGO purchases
 - Facilitate procurement processes for the AGO
 - Create, advertise, evaluate and award all AGO procurement solicitations
 - Review and sign all contracts and agreements for the AGO
 - Post-award contract management.

Overview of Accomplishments

- Solicit and award a contract to hire a fund administrator for the Theranos Settlement.
- Solicit and award the Outside Counsel Contract for Calendar Year 2017 to approximately 100 firms.
- Solicit and award a supplement contract to the Outside Counsel Contract for Calendar Year 2017 to add additional firms and to allow for existing firms to update information.
- Solicit and award the Outside Counsel Contract for Out of State Debt Collection to 7 firms covering 10 states.
- Negotiate multiple Outside Counsel Agreements to support special needs of other Agencies.
- Negotiate multiple Governmental Agreements to coordinate AGO with Federal, County and City Agencies.
- Streamline business card ordering process through new online website.

Procurement Activities





Director Paul Watkins

MISSION:

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

Division Summary

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

Consumer Protection & Advocacy Section

The Consumer Protection & Advocacy Section (“CPA”) protects the public from consumer fraud and educates the public regarding consumer protection issues. CPA contains the Consumer Litigation Unit (with offices in Phoenix and Tucson) and the Consumer Information and Complaints Unit. CPA handles hundreds of cases and responds to thousands of consumer complaints each year.

Overview of Accomplishments

- Secured a \$4.65 million consumer restitution award in a settlement with Theranos, Inc. over its faulty blood tests
- Members of CPA participated live with Attorney General Brnovich in a televised consumer phone bank hosted by ABC15
- Secured a favorable decision from the Arizona Court of Appeals, affirming the Attorney General’s authority to enforce investigative demands under the Consumer Fraud Act
- Increased pre-investigation consumer recoveries by more than 35% over fiscal year 2016

Consumer Litigation Unit

Telemarketing

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.

This year, the Consumer Litigation Unit (“CLU”) pursued a number of businesses engaged in illegal telemarketing, as (for the first time) telemarketing calls and scams topped the list of consumer complaints filed with the AGO.

First “Do Not Call” Consent Judgment

State of Arizona v. Larmore Auto Glass, LLC – In late 2016, CLU obtained its first ever “Do Not Call” consent judgment. The State’s lawsuit accused Larmore of marketing its auto glass installation services using illegal telephone solicitation practices, including sales calls that used prerecorded messages, repeated calls to consumers who previously requested that Larmore stop calling, and calls to consumers on the federal Do Not Call Registry. In the consent judgment, Larmore admitted to violating Arizona’s telemarketing laws and agreed to pay \$50,000 in civil penalties and \$10,000 in attorneys’ fees. Larmore also agreed to a six-year ban on telemarketing and a suspended civil penalty of another \$50,000 to be paid if Larmore violates the terms of the consent judgment. The owner of the business also entered a personal guarantee for the payment of all amounts due under the agreement.

\$1 Million Telemarketing Settlement

State of Arizona v. Choice Business Resources; DTCA Consulting – In November 2016, CLU filed a complaint against Choice Business Resources and several other entities and individuals who worked together to conduct a large-scale telemarketing scheme from Arizona. The complaint alleged that the defendants, operating under various business names, solicited consumers over the telephone to purchase services for thousands of dollars that the defendants falsely represented would result in the consumers receiving grant money, tax refunds, or corporate credit in amounts large enough to offset the consumers’ personal debt, as well as the significant upfront cost for the defendants’ purported services. In June 2017, CLU obtained consent judgments against each of the defendants, which provide for significant injunctive relief and collectively require the defendants to pay \$236,747 in consumer restitution, \$755,000 in civil penalties, and \$20,000 for the State’s fees and costs.

Home Services Telemarketing Calls

State of Arizona v. Adobe Carpet Cleaning, LLC, et al. – In January 2017, CLU filed suit against Adobe Carpet Cleaning and its owner alleging violations of the Telephone Solicitations Act and Consumer Fraud Act. The complaint asserts that Adobe engages in telephone solicitations for carpet cleaning services despite consumers’ residential telephone numbers being on the national Do Not Call Registry and their repeated requests that Adobe stop contacting them. Litigation is ongoing.

Business Opportunities

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.

Healthcare

\$4.65 Million Restitution Payment

State of Arizona v. Theranos, Inc. - Theranos operated a laboratory that conducted hundreds of blood tests, and also maintained test centers inside Walgreens stores, including over 40 test centers in the Phoenix area. Between 2013 and 2016, Theranos sold approximately 1.5 million blood tests to more than 175,000 Arizonans, ten percent of which were later voided or corrected. The State filed a complaint and consent judgment on April 18, 2017, alleging that Theranos' advertisements misrepresented the method, accuracy, and reliability of its blood testing and that the company was out of compliance with federal regulations contained in the Clinical Laboratory Improvement Amendments of 1988. In addition to injunctive relief prohibiting Theranos from owning, operating, or directing any laboratory in Arizona for a period of two years, the consent judgment provided full restitution to every Arizona consumer who purchased a blood test in the amount of \$4.65 million, as well as \$200,000 in civil penalties and \$25,000 in fees and costs. Theranos also agreed to pay for a claims administrator to distribute the restitution award to affected consumers.

Prescription Drug Marketing

Bristol Myers Squibb: Abilify - CLU's involvement on the executive committee of this multistate investigation contributed to a successful resolution resulting in a \$19.5 million multistate settlement, of which Arizona received \$568,249. The complaint and consent judgment alleged that Bristol Myers falsely and misleadingly solicited physicians to prescribe Abilify - an atypical antipsychotic drug - for diagnoses in children, including, among others, those with ADHD/ADD, autism, aggression, and anxiety. The states also alleged that Bristol Myers promoted Abilify for elderly patients, despite health risks. In addition to the monetary payments, the settlement provided injunctive relief, including prohibiting Bristol Myers from making misleading claims about Abilify's safety or efficacy and limiting the company in its provision of financial incentives to sales representatives and health care providers.

Auto Sales and Repairs

CLU pursued a wide variety of cases involving motor vehicle sales and repairs, as auto-related complaints were once again near the top of the list of consumer complaints for the year.

State of Arizona v. Auto Now Financial Services, d/b/a Tio Rico Te Ayuda; Drive Now, Inc., d/b/a Auto Action – In November 2016, CLU filed a complaint against the defendants, alleging that Tio Rico and Auto Action, as affiliated entities, engaged in an integrated business operation involving unfair business practices. Auto Action sold used vehicles, while Tio Rico made loans for used vehicle purchases. The State alleged that in many cases, after Tio Rico repossessed a vehicle purchased from Auto Action, Tio Rico would hold a private sale of the vehicle wherein Auto Action would purchase the vehicle at a low price, creating a deficiency. Auto Action would then allegedly resell the vehicle at retail to another consumer. If the original consumer had been credited with the subsequent retail sales price instead of the price paid by Auto Action, he or she would in most cases have had a significantly lower deficiency or be entitled to a surplus. The consent judgment, filed in January 2017, included substantial injunctive relief, as well as \$125,000 in payments by the defendants (\$50,000 in restitution, \$50,000 in civil penalties, and \$25,000 in costs and fees).

State of Arizona v. DriveTime Automotive Group Inc.; DT Acceptance Corp – DriveTime Automotive Group, DT Acceptance Corporation, and related entities operate as a used-car automobile dealership that provides in-house financing for consumers with poor credit scores. CPA received numerous consumer complaints regarding misrepresentations as to the condition of vehicles purchased, repair and warranty issues, and misrepresentations that DriveTime would report consumers' positive payment histories causing consumers' credit scores to increase. CLU's investigation and subsequent assurance of discontinuance resulted in the defendants paying \$27,239 in consumer restitution and an additional \$50,000 to the State. CLU also secured substantial injunctive relief, which, among other things, required the defendants to work with the credit reporting agencies to restore consumers' credit profile histories.

State of Arizona v. United Racing Engines, LLC; Rinehart Racing Engines, LLC – In April 2017, CLU filed a consumer fraud lawsuit against affiliated businesses, United Racing Engines (“URE”) and Rinehart Racing Engines (“RRE”), and their owners/managers. URE and RRE are Arizona-based companies that advertise and sell custom engine packages. The complaint alleges that, although the defendants accepted prepayments for custom engine packages, they failed to deliver such engines as advertised and sold. Although the individual defendants filed for bankruptcy in October 2016, the State prevailed in a motion to affirm the State's exception from the automatic stay. CLU subsequently filed the consumer fraud complaint, and litigation is ongoing.

Moving Fraud

CLU continued to investigate and litigate moving fraud cases throughout fiscal year 2017 and, notably, secured new legislation designed to crack down on abuses in the moving industry.

Trial Victory

State of Arizona v. 3 Gorillas Moving & Storage – In September 2016, CLU secured a trial victory against 3 Gorillas and its owner, Troy Emerson. The matter, which was referred to CLU by the AGO's Criminal Division, involved consumer complaints that 3 Gorillas would make a “good faith estimate” and then, once in possession of

a consumer's belongings, increase the cost. When the consumer did not immediately pay the higher price, 3 Gorillas took possession of the consumer's belongings and demanded an even larger payment. In addition to injunctive relief, the court awarded the State over \$17,000 in consumer restitution, an \$18,000 civil penalty, and over \$70,000 in attorneys' fees and costs.

Moving Fraud Legislation

This year, CLU drafted and proposed new legislation relating to intrastate household goods moves to protect consumers from misrepresentations, false advertisements, and movers who hold consumers' property hostage in order to receive payment. The legislation went into effect on August 9, 2017. Under the statute, a mover may not refuse to deliver or unload household goods unless the mover provided the consumer with a detailed contract before the move which included a total estimated price, and the consumer subsequently failed to pay the total estimated price. Movers must also provide accurate disclosures regarding their fees and insurance coverage. Violations of the statute will be enforceable by the Attorney General as violations of the Arizona Consumer Fraud Act.

Mortgage and Real Estate

State of Arizona v. Mortgage Capital USA, Inc. – In July 2016, CLU won a significant victory against Mortgage Capital USA, Inc., American Mortgage USA, Inc., Gustavo R. Anaya, and Olivia Anaya after years of litigation. The defendants held themselves out to the public as mortgage/foreclosure consultants who would negotiate loan modifications for Arizona consumers. However, while Mortgage Capital USA was purportedly negotiating loan modifications, it would often instruct consumers to cease paying their mortgage payments, resulting in the consumers losing their homes in foreclosure after the company failed to negotiate the modifications. CLU filed a consumer fraud lawsuit against the defendants in 2011 and won partial summary judgment in June 2013, and later obtained a judgment against a newly discovered related entity. In January 2015, Anaya filed for bankruptcy. After months of litigation, the bankruptcy court ruled in the State's favor, ordering that the amounts owed under the previous judgments were not dischargeable. The trial court ordered the defendants to pay a total of \$382,673 in consumer restitution, \$80,000 in civil penalties, and \$77,323 in attorneys' fees and costs. The defendants also were banned from engaging in mortgage relief and foreclosure consultant services in Arizona.

State of Arizona v. Global Relocation; Ilissa Nelsen – In January 2017, CLU filed suit against Global Relocation and its principal, Ilissa Nelsen, alleging that Nelsen placed numerous internet ads, through Global Relocation and other entities, seeking tenants for real property that she does not own or control. According to the complaint, Nelsen placed the ads from her home office in Phoenix, and the majority of the ads were placed on the Craigslist social media website. Litigation is continuing.

Timeshares

State of Arizona v. Diamond Resorts International; Diamond Resorts – Since 2011, the State has received nearly 1,000 consumer complaints against Diamond, which advertises and sells vacation club memberships. The complaints alleged, among other things, that Diamond misrepresented consumers' ability to use their vacation club points; that consumers were unable to refinance timeshare purchases; and that Diamond made misrepresentations regarding the ease of timeshare re-sales, maintenance fees, and the availability of tax write-offs for interest paid

on timeshare loans. In December 2016, CLU negotiated an assurance of discontinuance requiring Diamond to pay the State \$650,000 in consumer restitution and \$150,000 in fees and costs. In addition, qualifying consumers who no longer wanted their timeshares were permitted to return them to Diamond with no further obligations, provided those consumers filed a complaint with the State by May 23, 2017.

State of Arizona v. Condosmart LLC – CLU secured a default judgment against timeshare resale and rental business Condosmart in December 2016, followed by a default judgment against individual defendant Michael Swartz in June 2017. The defendants made unsolicited telemarketing calls to consumers who owned timeshare properties, during which they represented that the consumers had bonus weeks available through their timeshare exchange companies and that the defendants’ purported clients, usually well-known Fortune 500 companies, were available to rent consumers’ timeshare weeks. The defendants represented that if the consumers paid an up-front fee to Condosmart, usually \$199 per week for each bonus week the consumers made available, they would receive a check for \$1,050 per week in rental income. However, consumers never received the promised rental checks. The court awarded substantial injunctive relief, as well as \$74,169 in restitution, \$49,000 in civil penalties, and a total of \$26,969 in attorneys’ fees and costs.

Travel Services

State of Arizona v. Arch Vacations, Inc. and Darlene Ziebell – In October 2016, CLU filed suit against Arch Vacations and its president, Darlene Ziebell. The complaint alleges that Arch Vacations sold “travel certificates” that allowed customers to reserve a certain level of vacation – typically cruises –through the company. According to the complaint, however, the company made misrepresentations to consumers regarding the costs of travel certificates, failed to disclose important facts about redeeming certificates, and failed to comply with the Arizona Telephone Solicitations Statute. The State alleges that, in some cases, consumers who purchased travel certificates were not able to take desired vacations because Arch Vacations failed to make travel reservations. Litigation is ongoing.

State of Arizona v. Midkiff – CLU filed a complaint in December 2016 against Michael Scott Midkiff, the owner of a number of travel clubs, including WorldQuest International, Premier Resorts, and One Stop Travel. The complaint alleges, among other things, that the Midkiff companies sold purported travel club memberships, discount travel accommodations and services, and timeshare sales services. The defendants allegedly made false representations that, by purchasing travel club memberships, consumers would gain access to exclusive deals on travel, including stays at hotels, resorts, cruises, airfare, and golf outings. The complaint asserts, however, that the defendants failed to provide consumers the promised savings, and failed to honor consumers’ contractual three-day right to cancel. The lawsuit is ongoing.

State of Arizona v. Sonoran Outfitters Adventures, LLC and Todd Rice – Sonoran is an Arizona business operated by Todd Rice that engages in hunting guide services in Arizona, New Mexico, Oregon, and Mexico. In January 2017, CLU filed suit against Sonoran Outfitters and its owner, alleging that Sonoran failed to provide prepaid hunting, guiding, and trophy delivery services. Litigation is continuing.

Equipment Rentals

State of Arizona v. Malows Jetski Rentals, LLC, Mahriar Akbari, and Fariba Badre – In June 2017, CLU filed a lawsuit against Malows Jetski Rentals, a watercraft rental company located in Bullhead City, Arizona, and its owner and manager. The complaint alleges that the defendants advertised “\$65 ALL DAY” jet ski rentals but charged up to \$225 for jet ski rentals on Fridays, weekends, and holidays. The defendants’ advertisements allegedly failed

to disclose additional fees to launch and recover the jet skis and gasoline charges. According to the complaint, the defendants also refused to refund consumers' refundable deposits even when the consumers did not cause damage to the watercraft, charged consumers for damage to watercraft that were damaged prior to the rental; and overcharged consumers for gasoline based on the wrong size gasoline tank. The lawsuit is ongoing.

Wire Fraud – Multistate and Federal Settlements with Western Union

The Western Union Company – In January 2017, Arizona joined a multistate settlement with Western Union to protect consumers from scams perpetuated through wire fraud. The settlement requires Western Union to develop a comprehensive and multifaceted anti-fraud program. In addition to the multistate settlement, Western Union entered into settlements with the Federal Trade Commission and the U.S. Department of Justice, under which Western Union agreed to pay \$586 million in remediation to fraud victims nationwide. Under these settlements, Arizonans may be eligible for over \$11,560,000 in refunds. Western Union also agreed to pay the State \$71,081 in costs and fees.

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.

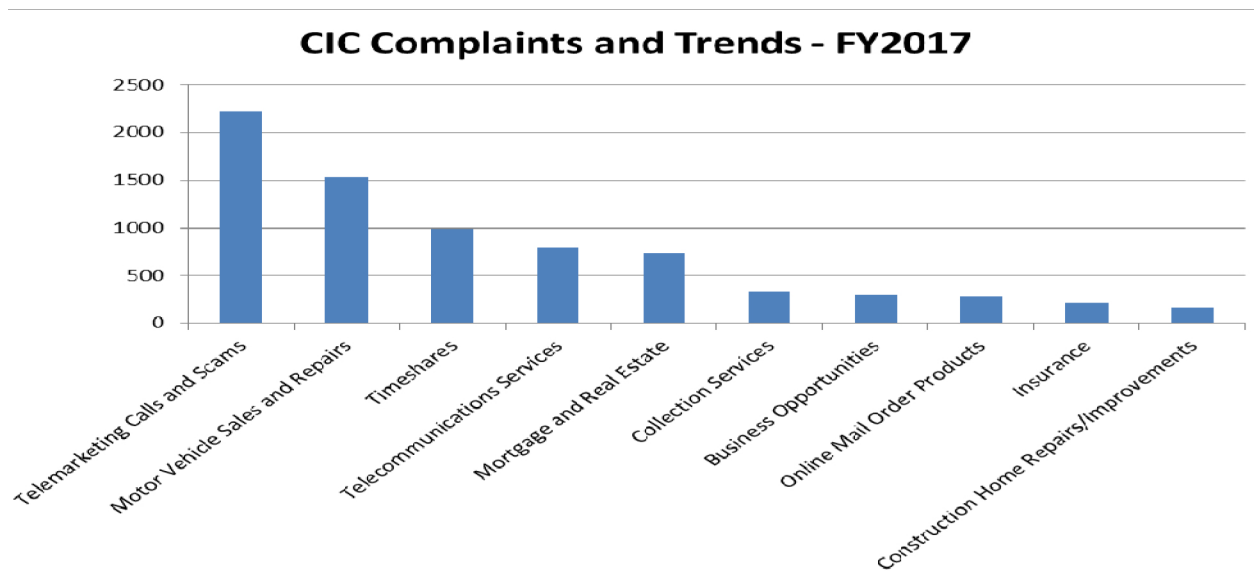
Largest Multistate Data Breach Settlement to Date

Target, Inc. – CLU joined with the consumer protection (or related) divisions of 46 other states and the District of Columbia in this investigation of Target's 2013 data breach. The investigation found that cyber attackers accessed Target's gateway server through credentials stolen from a third-party vendor in November 2013. The breach affected more than 41 million customer payment card accounts and contact information for more than 60 million customers. In the largest multistate data breach settlement to date, Target agreed to implement extensive measures to protect consumer privacy and to pay \$18.5 million to the states, of which Arizona received \$312,757.

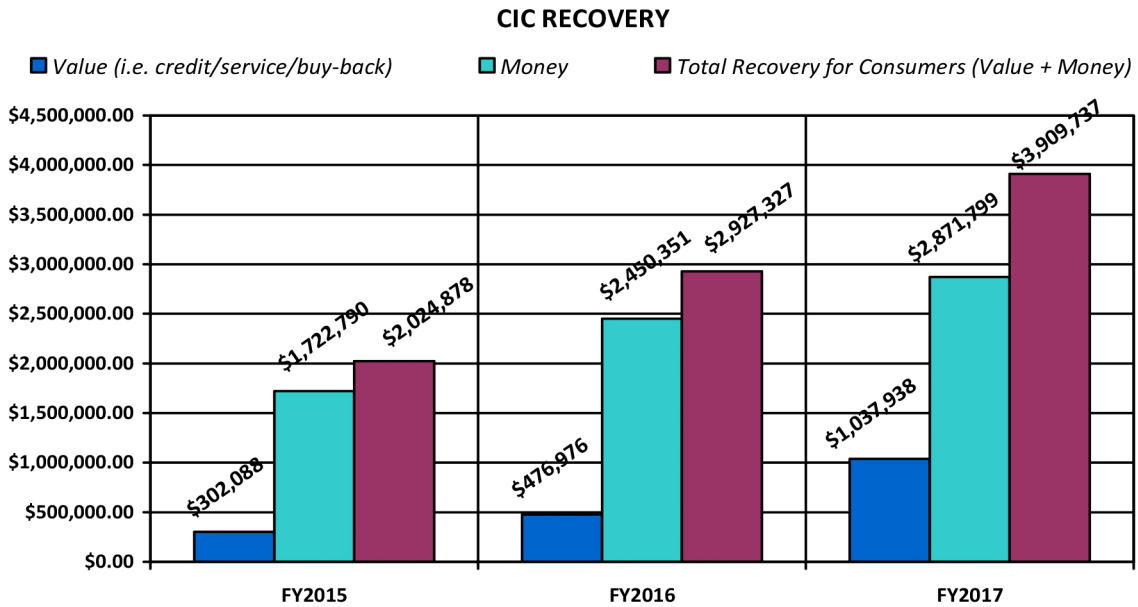
Consumer Information & Complaints

The Consumer Information and Complaints Unit (“CIC”) received over 17,500 consumer complaints and inquiries in fiscal year 2017. CIC staff, most of whom are bilingual in Spanish and English, answered more than 37,500 consumer phone calls throughout the year.

Common consumer complaint areas this year include the following:



CIC staff and volunteers conciliate consumer complaints and work to obtain recovery for consumers whenever possible. In FY2017, CIC recovered a total of \$3,909,737 for consumers throughout Arizona, a more than 40% increase over FY2016, and a more than 90% increase over FY2015.



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].

Government Accountability & Special Litigation (GASL)

The GASL and Antitrust Section serves the public through handling investigations and litigation related to legislator complaints filed pursuant to A.R.S. § 41-194.01 (SB 1487), anticompetitive conduct, election-related complaints, Open Meetings Law complaints, and matters concerning the illegal expenditure of public monies. In addition, the section assists the Consumer Protection & Advocacy Section's mission by handling certain major high-profile cases arising under the Arizona Consumer Fraud Act, as well as in acting under the federal Class Action Fairness Act, 28 U.S.C. § 1715, to protect Arizona consumers from class action settlements that unfairly divert settlement proceeds toward class action lawyers rather than injured consumers. Moreover, the section advocates in courts and federal agencies for actions that would reduce regulatory burdens on businesses, promote job growth, and foster federalism by allowing state to exercise their authority rather than imposing a one-size-fits-all federal approach.

Overview of Accomplishments

- Prevailing at the Arizona Supreme Court in *State ex rel. Brnovich v. City of Tucson*, CV-16-301-SA, which concluded that the City of Tucson's ordinance violated state law by requiring the city police department to destroy firearms. This was the first case decided pursuant to a legislator complaint filed under S.B. 1487.
- Successfully intervening and obtaining consolidation and dismissal of over 1,000 drive-by lawsuits filed in Maricopa County under the state Arizonans with Disabilities Act and federal Americans with Disabilities Act (appeal pending).
- Spearheading an initiative to protect consumers from class-action settlement abuse. This includes filing briefs in federal courts across the country (including the U.S. Supreme Court) on behalf of multi-state, often-bipartisan coalitions. One example of the positive effects of these efforts occurred in *Allen v. Similasan Corp.* There, the District Court rejected the initial proposed settlement after an Arizona-led coalition filed an amicus brief citing problems with the deal, and ultimately approved a revised settlement that increased consumers' cash recovery from \$0 to approximately \$700,000.

Government Accountability & Special Litigation Unit (GASL)

The Attorney General's Office (AGO) has responsibility for civilly enforcing several statutes related to government accountability. GASL was recently established to improve efficiency of these investigations. GASL's responsibilities within the AGO include the following:

- Matters arising under S.B. 1487, which provides for withholding of state-shared revenue for violations of state law by counties, cities, and towns;
- Citizen election complaints and referrals by the Secretary of State and others for violations of state election laws and lobbying under Titles 16, 19 and 41 of the A.R.S.;
- Complaints alleging Open Meeting Law violations, A.R.S. § 38-431 et seq.; and
- Matters concerning public monies illegally paid under A.R.S. § 35-211 et seq.

In addition, an important part of GASL's workload is handling certain major high-profile fraud cases arising under the Consumer Fraud Act (CFA). GASL also takes steps under the federal Class Action Fairness Act, 28 U.S.C. § 1715, to protect Arizona consumers from class action settlements that unfairly divert settlement proceeds toward class action lawyers rather than injured consumers.

Finally, GASL's responsibilities include advocating in courts and federal agencies for actions that would reduce regulatory burdens on businesses, promote job growth, and foster federalism by allowing state and local governments to exercise their authority rather than imposing a one-size-fits-all federal approach. And it similarly entails pushing back against other states that seek to impose their own burdensome regulatory regimes outside their borders in ways that impact Arizonans and our state as a whole.

The following are several indicative examples of recent GASL-related efforts (many of which are ongoing):

- Prevailing in the Arizona Supreme Court under S.B. 1487 relating to the City of Tucson's destruction of firearms in violation of state law; the Court issued a judicial determination that Tucson's ordinance violated state law and it upheld key portions of S.B. 1487 from constitutional attack.
- Intervening and obtaining dismissal of approximately 1,100 Arizonans with Disabilities Act/Americans with Disabilities Act lawsuits that were improperly filed by Plaintiffs who lacked standing. This saved businesses potentially \$4.3 million in settlement fees for these drive-by lawsuits. Moreover, the attorney for the plaintiffs in those cases stated he would file approximately 6,000 more lawsuits, which would have cost businesses in Arizona an estimated \$23.4 million in settlement fees, if AGO had not intervened.
- Spearheading an initiative to protect consumers from class-action settlement abuse. This includes filing briefs in federal courts across the country (including the U.S. Supreme Court) on behalf of multi-state, often-bipartisan coalitions. One example of the positive effects of these efforts occurred in *Allen v. Similasan Corp.* There, the District Court rejected the initial proposed settlement after an Arizona-led coalition filed an amicus brief citing problems with the deal, and ultimately approved a revised settlement that increased consumers' cash recovery from \$0 to approximately \$700,000.
- Prosecuting a civil enforcement action against Volkswagen for their alleged diesel engine fraud. GASL's efforts have produced several important court victories to date, including keeping the case in Arizona state court and resisting dismissal on preemption grounds. As a result, Arizona's case is well-positioned to be one of the first cases to go to trial if necessary.
- Defending the State's victims' rights laws against a challenge in Federal District Court. This involved briefing several important procedural and substantive issues crucial to protecting Arizona's voter-enacted victims' rights structure. The case is ongoing.
- Leading certain federalism efforts on behalf of the State by filing comment letters with federal agencies to ensure that the state's ability to regulate and other state interests are not infringed. One recent example includes Arizona leading a 30-state coalition urging the federal government to remove regulatory burdens that prevent providers from blocking certain types of illegal telemarketing calls.
- Several ongoing investigations that cannot be disclosed at the present time.

Antitrust Unit (ATU)

LIBOR

Arizona's Antitrust Unit joined a 44-state, \$100 million settlement with Barclays Bank PLC and Barclays' Capital Inc. (collectively "Barclays") resolving allegations that Barclays engaged in fraudulent and anticompetitive conduct involving the manipulation of U.S. Dollar LIBOR (the "London Interbank Offered Rate"). The states' investigation found that Barclays manipulated LIBOR rates in two ways. First, at various times during the financial crisis, Barclays submitted misleading LIBOR rates to avoid the appearance that Barclays was in financial difficulty and needed to pay a higher rate to borrow money than some of its competitors. Second, Barclays traders asked Barclays LIBOR submitters to change their LIBOR submissions to benefit the traders' positions, rather making truthful submissions reflecting Barclays' true borrowing costs. As a result, government entities and not for profit organizations throughout the country and Arizona were defrauded out of millions of dollars when entering into swaps and other LIBOR-linked financial agreements with Barclays.

MOODY'S

Arizona joined 20 other states, the District of Columbia, and the United States Department of Justice in a settlement with Moody's Corporation, Moody's Investor Services, Inc. and Moody's Analytics, Inc. (collectively "Moody's") resolving allegations that Moody's mislead investors about the independence and objectivity of its structured finance securities credit ratings. As a result of the settlement, Moody's agreed to follow certain compliance measures designed to address conflicts of interest and to protect the integrity and transparency of its ratings methodologies. Moody's also agreed to pay the states and DOJ \$875 million. Arizona recovered approximately \$12.6 million from the settlement.

CAFA

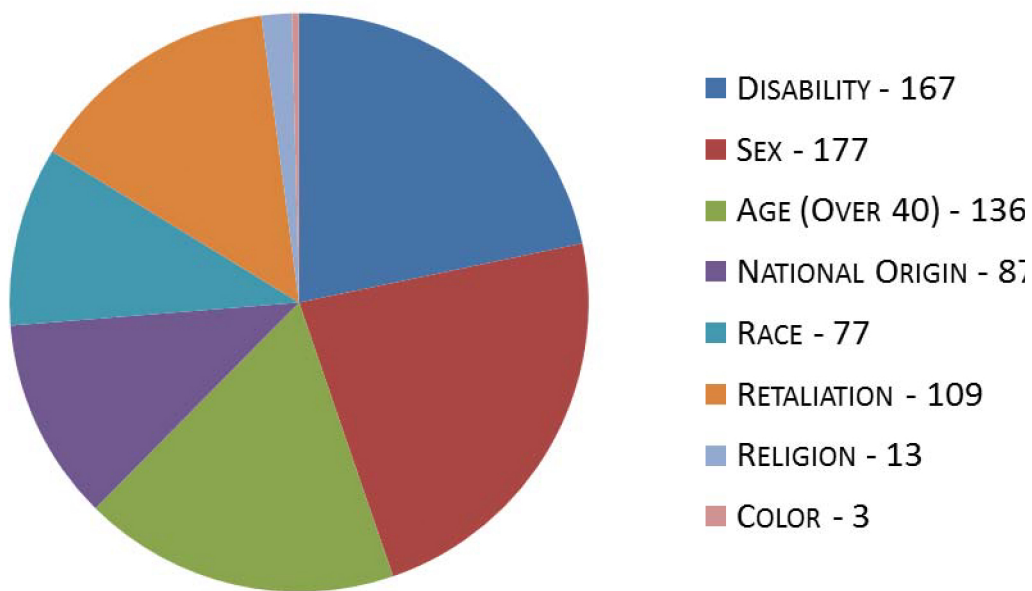
In July 2016, Arizona led a coalition of eight State Attorneys General in filing an amicus brief in the case, *Allen v. Similasan* in the Southern District of California. The case dealt with a homeopathic product that Similasan represented was 100% natural but it was alleged in the complaint that the product actually contained chemical ingredients and did not provide the benefits as advertised. The initial settlement provided for \$0 to the class and ~ 600k to class counsel, along with an overbroad release and flawed notice provisions. Put simply, class counsel took 100% of the available money and the class received nothing of particular value, only injunctive relief available to the general public in labeling changes. The court cited the States' brief in denying settlement approval and sent the parties' attorneys back to the bargaining table. In August 2017 a new settlement was approved. The new settlement provides for approximately \$700,000 divided pro rata to class members and approximately \$175,000 to class counsel along with a narrower release and better notice. Class members went from receiving 0% of the settlement fund to 80%.

Division of Civil Rights Section

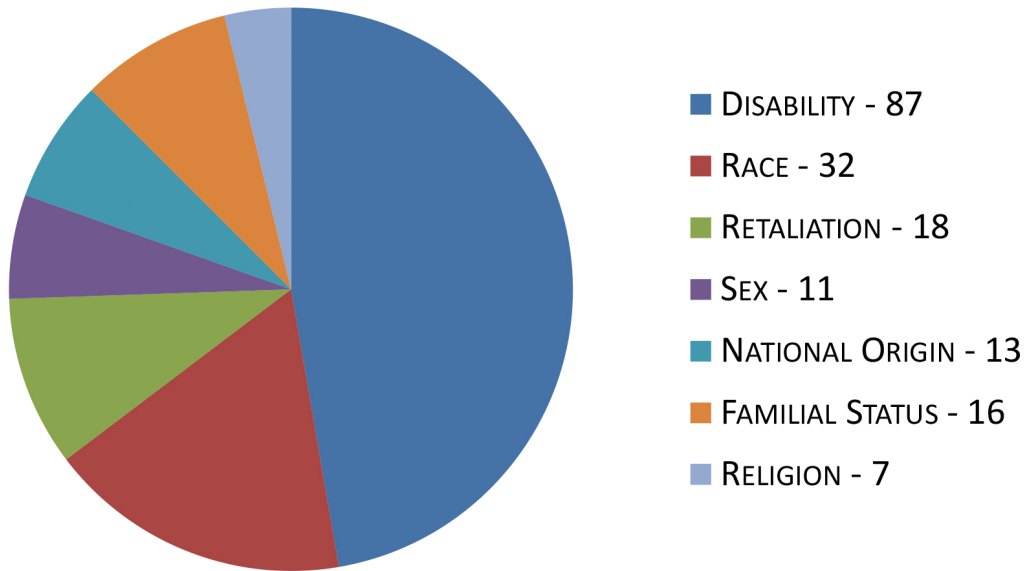
The Division of Civil Rights Section (“DCRS”) enforces the Arizona Civil Rights Act (“ACRA”). ACRA prohibits discrimination in employment, housing, public accommodations, and voting. The DCRS investigates, mediates, and litigates complaints alleging violations of ACRA and seeks to reduce discriminatory 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 work to eliminate discrimination.

Arizonans can file charges with the DCRS online, by phone, mail, or in person. In FY 2017, the DCRS investigated 1,822 discrimination charges that potentially violated ACRA. DCRS investigated charges alleging the following types of discrimination:

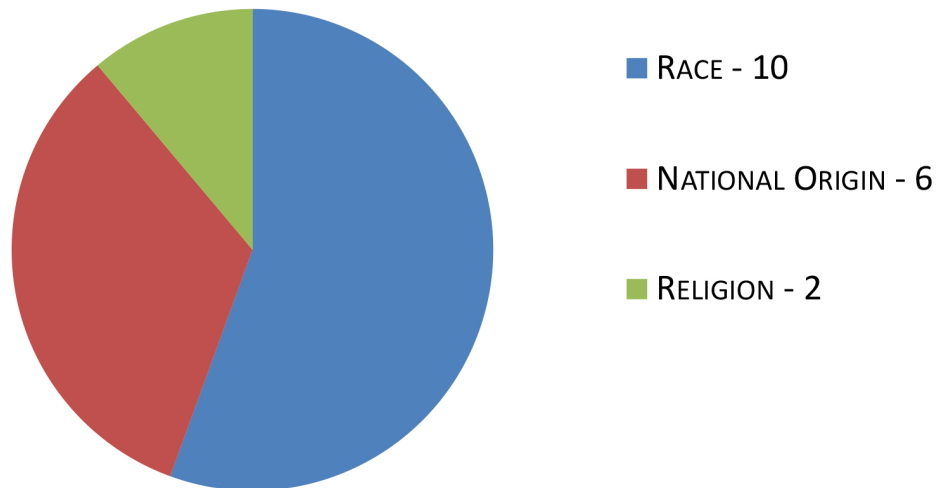
ALLEGATIONS OF DISCRIMINATION IN EMPLOYMENT



ALLEGATIONS OF DISCRIMINATION IN HOUSING



ALLEGATIONS OF DISCRIMINATION BY A PUBLIC ACCOMMODATION



Allegation of Violation of the Arizonans with Disability Act

Where possible, the DCRS seeks to resolve disputes through various forms of conflict resolution. In FY 2017, the DCRS resolved 108 charges of discrimination through mediation, conciliation, or litigation settlements. As a result of these efforts, the DCRS obtained a total of \$808,816.53 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.

The highlights of cases litigated by the DCRS this past year include the following:

State v. Sparky's Investments, LLC - In this employment case involving sex discrimination, it is alleged that an owner/supervisor subjected the sole, female employee to unwelcome verbal and physical conduct of a harassing nature. The alleged harassing conduct was sufficiently severe and pervasive that it altered the terms and conditions of her employment, with weekly sexually offensive comments, text messages, and physical touching, creating a hostile work environment. Defendant allegedly touched the female employee's back, hips, and smacked her buttocks, viewed a pornographic video at work in her presence, and responded to her text messages with sexually-explicit comments and propositions. The case is pending before the Maricopa County Superior Court.

State v. Sullivan Motor Co., Inc. - In this employment case involving disability discrimination, it is alleged that the employer denied its employee the reasonable accommodation of a reduced work schedule to attend chemotherapy treatments and then terminated his employment. The State filed suit against the employer in Maricopa County Superior Court. The parties entered into a consent decree which required training and policies to prevent future violations. The employer and the employee also entered into a separate agreement to resolve the employee's state and federal civil rights claims.

State v. Northwest Medical Center - In this employment case involving disability discrimination, it is alleged that the employer denied an employee's request for a reasonable accommodation of medical leave to allow the disabled employee time to recover from surgery, and instead terminated the employee's employment. The case is pending before the Pima County Superior Court.

State v. Northwest Medical Center

In this employment case, it is alleged that two employees were subjected to sex discrimination and a sexually hostile work environment. The aggrieved individuals allegedly faced verbal sexual harassment including crude sexualized comments. One of the individuals was allegedly subjected to retaliation when her supervisor suspended her from work for a week after she denied his sexual advances. The case settled in Pima County Superior Court. The State was granted injunctive relief including mandatory training for all employees.

State v. Southern Arizona Legal Aid (SALA) - In this employment case involving disability discrimination, it is alleged that the employer denied an employee a reasonable accommodation for her disability and retaliated against her after she complained. The employee reported receiving a long-standing accommodation for her disability in the form of a flexible schedule. SALA allegedly reviewed her accommodation, limited her hours, and eventually transferred her to a less desirable position. This case is pending in Pima County Superior Court.

State v. GEO - In this employment class action involving sex discrimination, it is alleged that female employees were subjected to sexual harassment, a sexually hostile work environment, and retaliation. The employees were allegedly subjected to various forms of sexual harassment ranging from inappropriate sexualized comments to unwelcome sexual physical contact. This case is pending in the U.S. District Court for the State of Arizona.

State v. Smith's Food and Drug Centers - In this employment case involving disability discrimination, it is alleged that the employer denied an employee a reasonable accommodation for her disability and retaliated against her. The employee asserted a mobility impairment which required her to use a cane and a stool while at work. Her employer allegedly denied her the accommodation, and when she was unable to return to work without her requested accommodation she was terminated. This matter is pending in Pima County Superior Court.

In addition to its investigation and enforcement activities, the DCRS participated in or sponsored 38 education and outreach events to inform the community about civil rights laws and the DCRS's complaint and resolution process.

Bankruptcy & Collection Enforcement Section

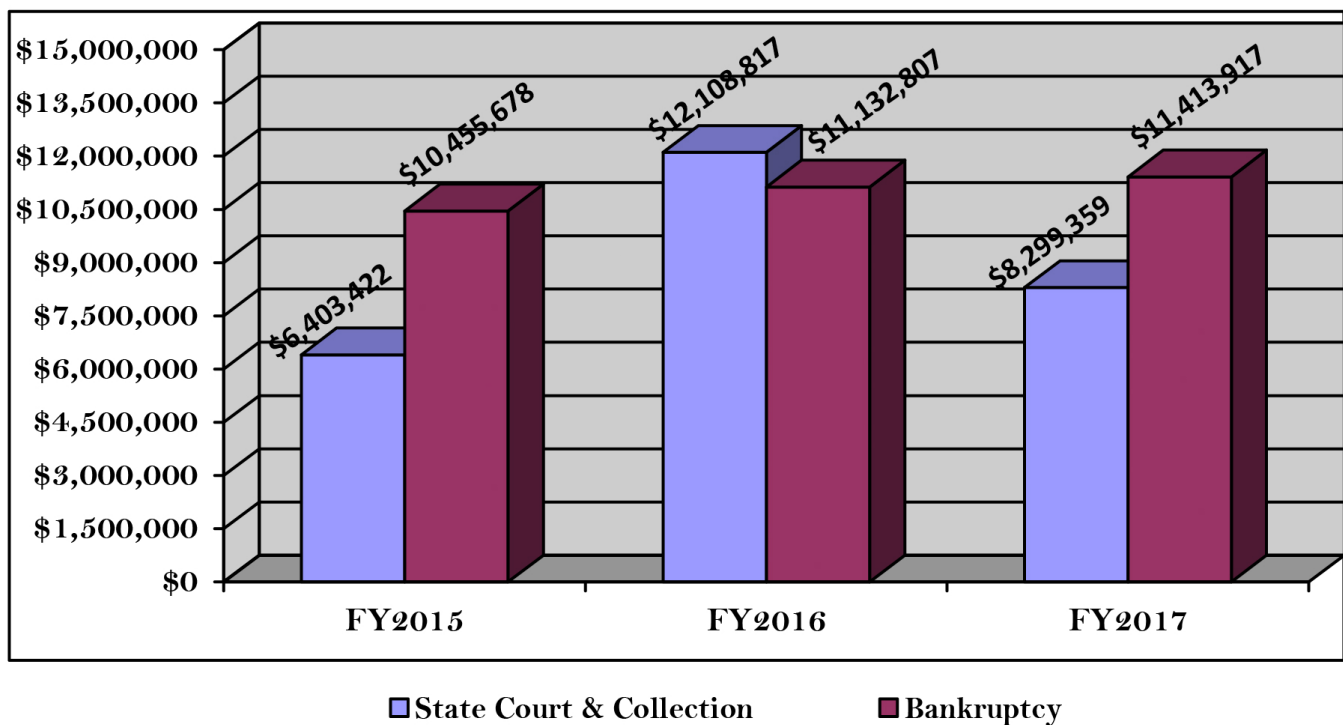
The Bankruptcy and Collection Enforcement Section (“BCE”) comprised of the Bankruptcy Unit, Collection Enforcement Unit and State Court Unit, is a cross functional team of attorneys, legal staff and debt collection professionals. BCE’s mission is to collect debts owed to the State of Arizona, efficiently,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

Accomplishments

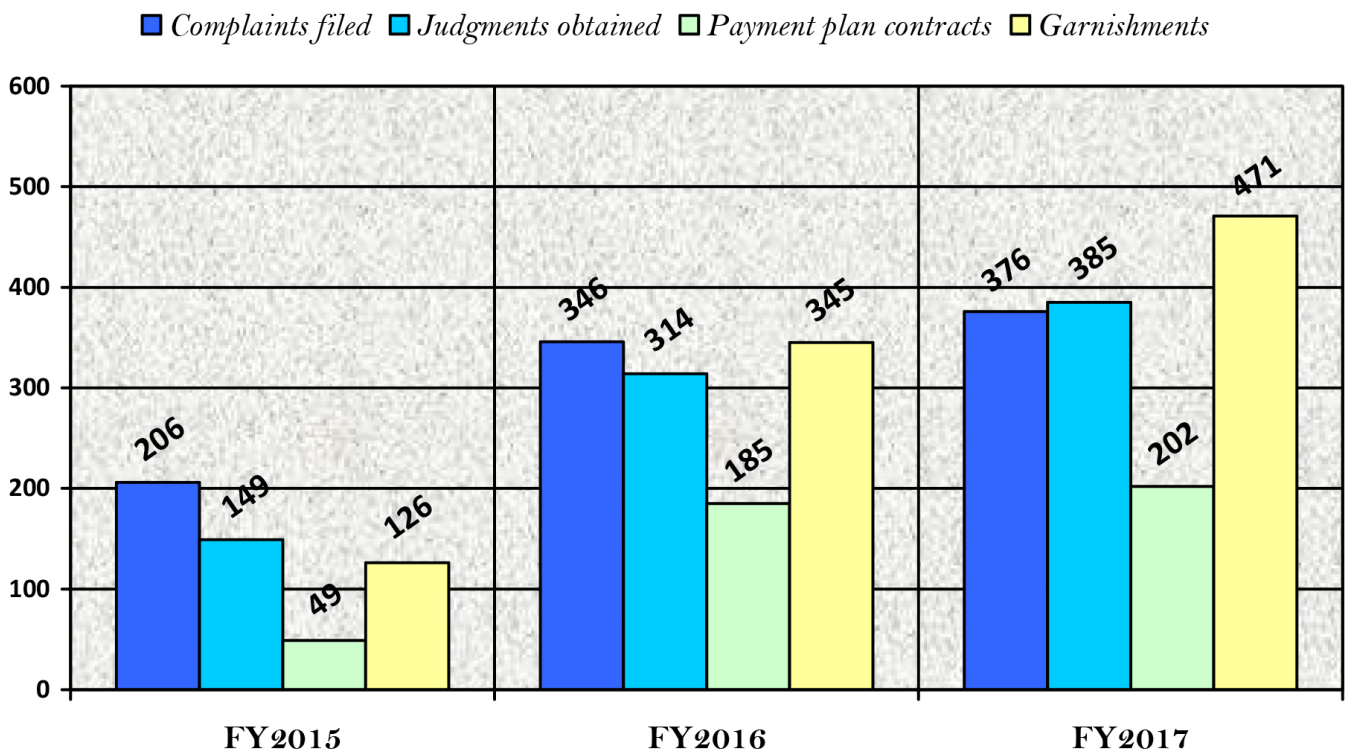
In FY2017, BCE collected approximately \$19.7 million for the State of Arizona. Continued improvements in BCE operations have steadily increased revenues as a result of increased debt collection benefiting both the Attorney General’s Office (AGO) and the State of Arizona.

COLLECTION ENFORCEMENT REVOLVING FUND
Revenue by Fiscal Year



BCE has seen significant increases in the amount of Complaints filed, Judgments Obtained, Payment Plan Contracts and Garnishments. In FY2015, BCE filed 206 Complaints. In FY2016 that was increased to 346 and in FY2017, it filed 376, an 83% increase over FY2015. In FY2015, BCE obtained 149 judgments. In FY2016 that was increased to 314 and in FY2017, it obtained 385, a 158% increase over FY2015. In FY 2015, BCE entered into 49 payment agreements. In FY2016, that number increased to 185 and 202 in FY2017, a 312% increase over FY2015. The same trend was seen in garnishments. In FY2015, BCE filed 126 garnishments. In FY2016, BCE increased that to 345 garnishments and 471 in FY2017, a 274% increase over FY2015. All of these increases in directed collection activity have resulted in significant increases in collection and have paved the way for continued increases in the years to come.

Complaints/Judgments/Payment Plans/Garnishments



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 in state and federal environmental matters and enforces all environmental statutes for the state.

Overview of Accomplishments

- Represented the state in the administration and enforcement of all state and federal environmental enforcement and remediation programs.
- Collected over \$239,000 in civil penalties from facilities for violations of Arizona’s pollution control laws.
- Collected over \$634,000 in remediation costs from facilities responsible for soil and groundwater contamination in the state.

State v. Capital Metal Finishing, Inc. - EES obtained court approval of a settlement with Capital Metal Finishing, Inc. a chrome metal finishing company in Tucson. The complaint alleged that the defendant illegally stored, handled, and disposed of hazardous waste at its metal plating facility. Under the judgment, Capital Metal Finishing paid a \$24,000 penalty and remediated contamination at the site.



State v. Durham Regional Landfill, LLC and Waste Technologies, LLC (Right Away Disposal) - EES obtained court approval of a settlement with Durham Regional Landfill, LLC and Waste Technologies, LLC for violations of Arizona’s solid waste management laws. The complaint alleged that the defendants owned and operated a solid waste landfill in Pinal County, but failed to properly manage the disposal of the solid waste as required in the facility’s permit. Under the judgment, the defendants paid a \$25,000 civil penalty and corrected the violations at the facility.

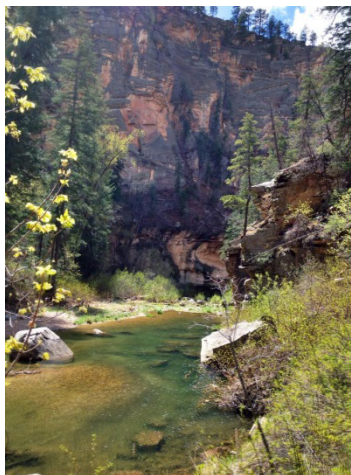
State v. CEMEX Construction Materials South, LLC - EES obtained court approval of a settlement with CEMEX Construction Materials South, LLC for violations of Arizona’s air quality control laws at its facility in Coconino County. The State alleged that CEMEX operated an asphalt plant and a crushing and screening plant at its facility without obtaining the proper air quality control permit. Under the judgment, CEMEX agreed to pay a \$130,000 civil penalty and achieved compliance with the state’s air quality laws.

State v. Arizona Redi-Mix, Inc. - EES obtained court approval of a settlement with Arrow Redi-Mix, Inc. for violations of Arizona's air quality control laws at the defendant's concrete plants in Winslow and Williams. The complaint alleged that the defendant operated the plants without obtaining or renewing its air quality control permits. The judgment, valued at \$44,000, ordered the defendant to pay a \$15,000 civil penalty and required the defendant to achieve continued compliance through a court-approved environmental consultant and verified training of its personnel.



State v. VMC Enterprises, Inc. - EES, on behalf of Arizona Department of Environmental Quality, filed a lawsuit against the owners and operators of a facility in Buckeye that disposed of solid waste, used oil, and waste tires. During the litigation, the defendants worked with the state to address the on-going violations alleged in the complaint, which resolved the potential injunctive relief. After achieving compliance, EES obtained a consent judgment against two of the defendants, who agreed to pay a \$5,000 civil penalty to settle their partial liability.

State v. Hatch Construction & Paving, Inc. - EES obtained court approval of a settlement with Hatch Construction & Paving, Inc. for violations of Arizona's air quality control laws at asphalt and concrete plants in Navajo County. The State alleged that the defendant operated equipment at the plants in violation of permit restrictions including pollution emission limits and performance monitoring requirements. Under the judgment, Hatch paid a \$20,000 civil penalty, achieved compliance with the state's air quality laws, and agreed to increase monitoring and reporting requirements to assure future compliance.



State v. Papago Plating Company, Inc. - In *State v. Papago Plating Company, Inc.* the state ordered Papago to comply with the hazardous waste management laws and remediate hazardous contamination at its metal plating facility in Phoenix. After Papago failed to comply, the state and the City of Phoenix jointly assessed, removed, and remediated the hazardous conditions at the facility. EES successfully obtained an environmental lien against Papago's property for \$122, 393 to recover costs incurred by the state to remediate the property.

State v. Drake Cement, LLC - EES obtained court approval of a settlement with Drake Cement, LLC for violations of its air quality control permit at a cement plant in Yavapai County. The complaint alleged that the defendant operated equipment at the plant in violation of numerous permit restrictions including pollution emission limits and performance monitoring requirements. Under the judgment, Hatch paid a \$20,000 civil penalty, achieved compliance with the state's air quality laws, and increased its monitoring and reporting to assure future compliance.

Town of Florence v. Arizona Department of Environmental Quality (Florence Copper Mine) - In this administrative appeal before the Arizona Water Quality Appeals Board, EES successfully defended the Arizona Department of Environmental Quality's decision to issue an aquifer protection permit (amended) to Florence Copper, Inc. for an in situ copper extraction test facility at the Florence Copper Project. The appellants claimed the Department violated legal and technical requirements and sought to vacate the state's aquifer protection permit decision. Following an evidentiary hearing with expert testimony and extensive briefing, the Board upheld the Department's decision in its entirety.

Water Quality Assurance Revolving Fund (WQARF) Representation and Litigation - EES represents the Arizona Department of Environmental Quality in the administration and enforcement of the Water Quality Assurance Revolving Fund ("WQARF") (Arizona's Superfund program). WQARF registers sites with contamination from hazardous substances, investigates potentially responsible parties, and undertakes remediation of soil and groundwater contamination. EES provides on-going legal advice that includes negotiating and litigating to obtain access for remedial work; investigating and litigating to allocate liability; pursuing cost recovery for state funds expended for remediation; negotiating settlements and prospective purchaser agreements; and assisting in developing administrative, legal and technical processes for the effective program administration and enforcement. In fiscal year 2017, EES collected over \$512,000 in remediation costs from facilities responsible for soil and groundwater contamination in Arizona.



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, and well-being 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 435 employees in locations statewide. The 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.

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 276.20 full time equivalent positions; 153.70 attorneys and 122.50 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 courts monitor the children in the legal custody of DCS and progress towards permanency. Protective and remedial social services are provided to the family in an effort 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 DCS in actions to achieve the permanent placement of children through guardianship, severance of parental rights, and adoption proceedings.

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

The CFPD Appeals Unit 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 arising from dependency, guardianship, and termination matters. In FY2017, the Appeals Unit filed approximately 189 briefs on behalf of the Protective Services Section, in addition to numerous substantive motions and research and writing projects for PSS trial attorneys. The Supreme Court and Court of Appeals issued nine opinions in FY2017 in cases that were briefed by the Appeals Unit. The Appeals Unit has seen a 30 to 40 percent increase in the number of appeals filed in DCS cases over each of the past two years. As a result of that increase, the Appeals Unit has been working with the appellate courts, including a committee on juvenile appeals timelines chaired by Justice Robert Brutinel, to address the need for prompt resolution of appeals affecting children in out-of-home care.

In addition to the items listed above, the Appeals Unit assists PSS by:

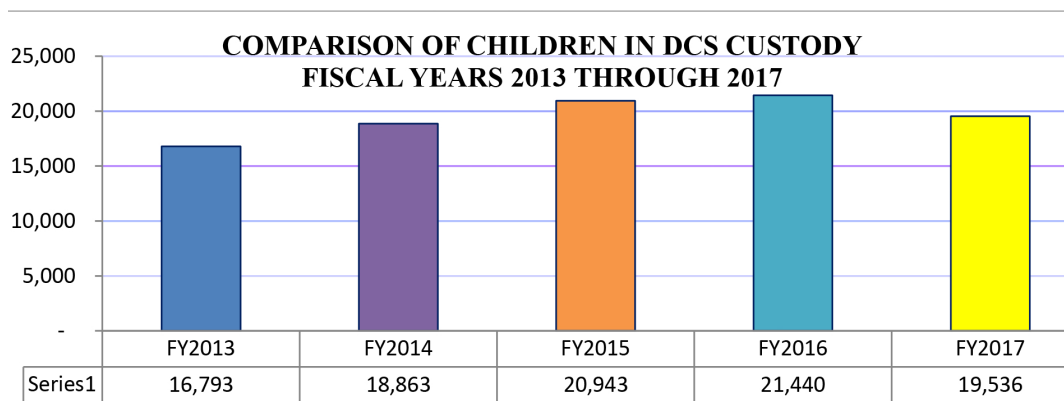
- Training new-hire attorneys during mandatory initial training, training all PSS AAGs on changes in the law, and training attorneys and judges around the state on various topics through the Supreme Court's Court Improvement Program.
- Meeting regularly with DCS to discuss policy and appellate issues.
- Serving on various committees including the State Bar's Bar Leadership Institute, the Conference of Western Attorneys General's Legislative Action Committee, the National Association of Counsel for Children, and various court committees and initiatives.

Significant in FY2017, the Appeals Unit helped to secure dismissal of a federal class-action lawsuit directed at DCS and others to challenge the constitutionality and application of the federal Indian Child Welfare Act (ICWA). (*Carter v. Washburn*.) That dismissal has been appealed to the Ninth Circuit, where the Appeals Unit will argue the case on DCS's behalf. In addition to this significant ICWA case, the Appeals Unit has become nationally known for expertise in ICWA matters, as recognized by Casey Family Services and the Conference of Western Attorneys General.

Overview of Accomplishments

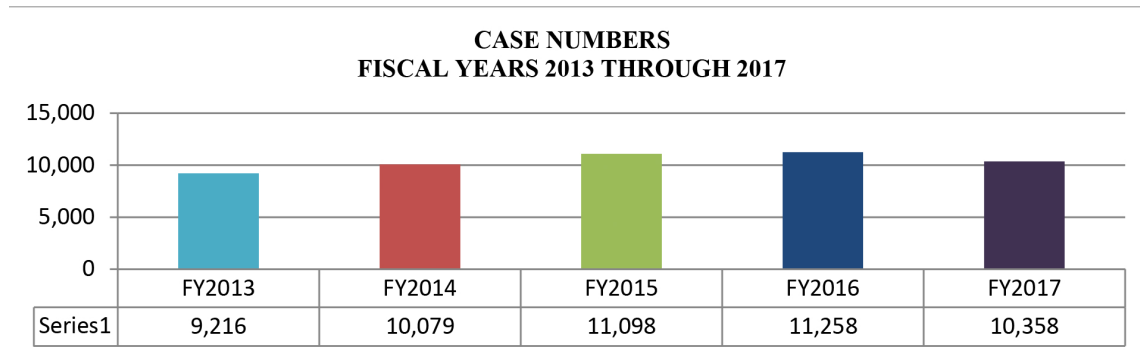
- PSS attorneys prepared for and/or attended 80,933 court appearances.
- PSS attorneys prepared for and represented the DCS in trial a total of 7,765 days in FY2017.
- The PSS Litigation Support Unit trained 53 new attorneys during FY2017.
- The PSS Litigation Support Unit trained an average of 32 new case managers every month both in Phoenix and Tucson.

- The PSS Litigation Support Unit, in conjunction with National Attorneys General Training & Research Institute (NAGTRI), conducted a week-long Trial College for 32 of our PSS lawyers from across Arizona. They also conducted two shorter multi-day trial colleges, one basic and one intermediate, to enhance litigation skills of our PSS attorneys across Arizona. Additionally, the Litigation Support Team provided training to High Intensity Drug Trafficking Areas (HIDTA) and to the DCS Advanced Investigator Academy.
- PSS assisted DCS in protecting more than 19,536 children from abuse and neglect.
- PSS filed 5,651 new dependency petitions.
- PSS filed 2,683 severance motions and petitions.
- PSS filed 332 guardianship motions.
- PSS filed 286 adoption petitions.¹
- PSS assisted DCS in reuniting 3,534 children with their parents.
- PSS assisted DCS in placing 535 children with permanent guardians.
- PSS assisted in the adoption of 3,426 children by relatives or foster parents.
- PSS maintained its improved efficiency model for timely filing of dependency petitions within 72 hours.
- PSS continued to reduce costs for training new attorneys outside of Maricopa County.
- PSS improved its “mentor” system for attorneys and has continued to provide improved guidance and oversight to ensure child safety.
- PSS identifies, tracks, and regularly staffs some of the more serious complex cases, in an effort to better protect these especially vulnerable children.
- PSS conducts regular audits to ensure compliance with the Adoption and Safe Families Act (ASFA), which is a significant source of funding for DCS.



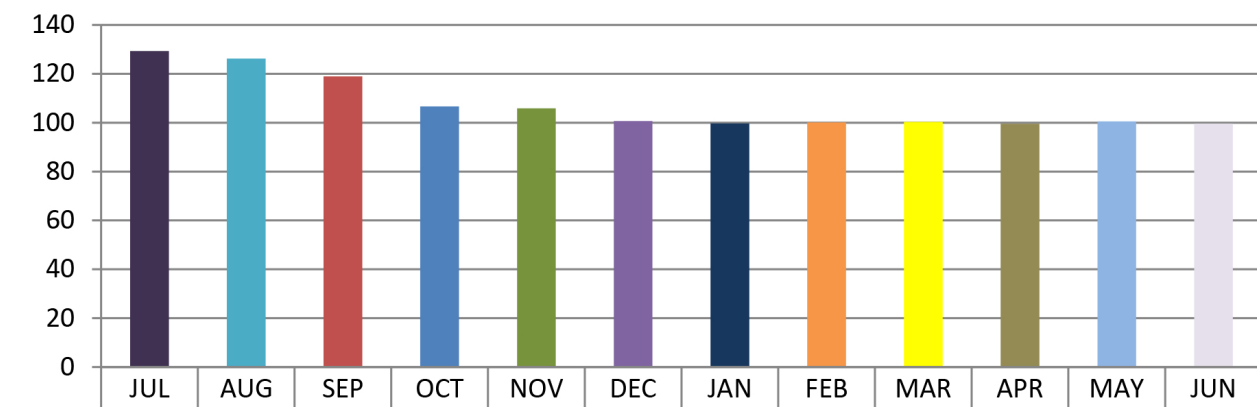
In FY2017, DCS saw a slight decrease in the number of children in care.

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.



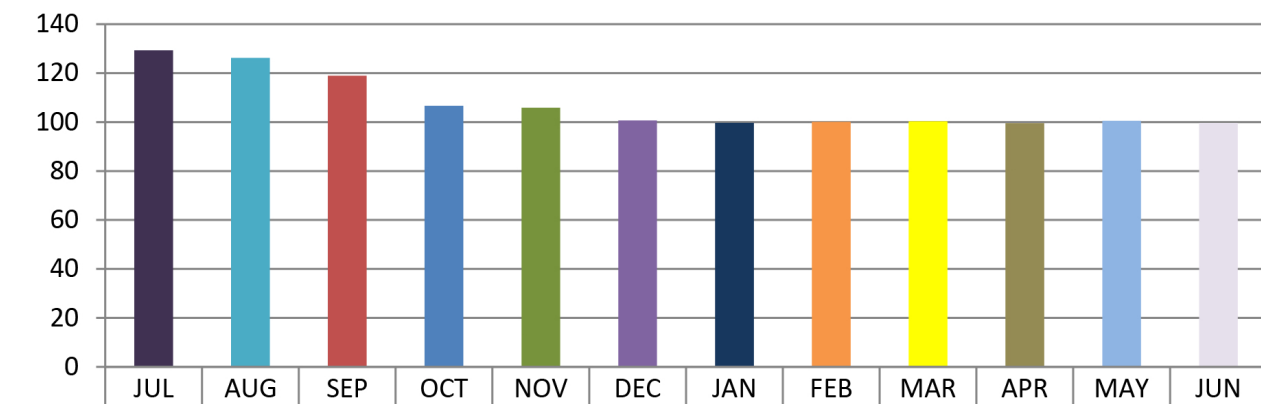
Similarly, PSS also saw a slight decrease in the number of open cases at the end of FY2017.

**PSS ATTORNEY CASE LOADS BY MONTH
DURING FISCAL YEAR 2017**



In FY2017, the legislature allocated funding for an additional 20 attorneys. This has enabled PSS to bring its average attorney caseload to below 100 cases per attorney.

**PSS ATTORNEY CASE LOADS BY MONTH
DURING FISCAL YEAR 2017**



At the end of FY2017, the average case load was below 100 cases per attorney, a number PSS has not seen in several years.

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 five 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. The Arizona IV-D Child Support Program is number one in the nation with respect to its efforts in establishment of paternity. During FY2017, the number of paternity orders entered by the court increased by 3% and the number of children for whom paternity was established increased slightly. The number of new child support orders established by the court increased by 5%.

Ensuring that the child support order is the "right size" for a paying parent is important both when establishing and later modifying orders. Parents are more likely to pay a support order consistently when it is a reasonable amount based on their actual income. Many parents are seeking DCSS services to modify or collect their child support. The number of modifications filed this year decreased, but still constituted about 20% of the litigation caseload.

To increase the overall collections for both current support and arrears, the CSS attorneys filed 1,968 new enforcement actions. The CSS trial attorneys appeared in 24,670 court appearances, a slight increase from FY2016. The CSS attorneys provided legal advice on 4,502 cases and reviewed 18,675 cases for litigation. The CSS Bankruptcy Team currently handles over 655 Chapter 7 and Chapter 13 cases. Overall, the CSS litigation caseload increased by 7% to 7,605 cases at the close of FY2017.

Policy and Training

PSS attorneys advise DCSS on various legal issues arising from federal and state statutes, regulations, policies, and court decisions. In December 2016, the federal Office of Child Support Enforcement published the first major overhaul to the child support regulations since 1996 in an effort to strengthen and update the child support program. The new regulations are titled the Flexibility, Efficiency, and Modernization in Child Support Programs Final Rule ("Final Rule"). The CSS Training Team created and presented training for both the AGO and the client staff regarding the dramatic changes required by the Final Rule. In October 2016, DCSS was awarded a five-year federal grant called the Procedural Justice Alternatives to Contempt ("PJAC") grant. The PJAC grant will explore enhanced case management as an alternative to judicial contempt when the paying parent fails to pay child support. In conjunction with the PJAC grant, the CSS attorneys revised and enhanced procedures for screening cases for potential contempt actions and participated in procedural justice and domestic violence Training. In addition to these special projects, the CSS Training Team oversees the core training for all incoming

staff and coordinated and presented two, full day training programs for the attorneys and paralegals statewide, including the County Partners.

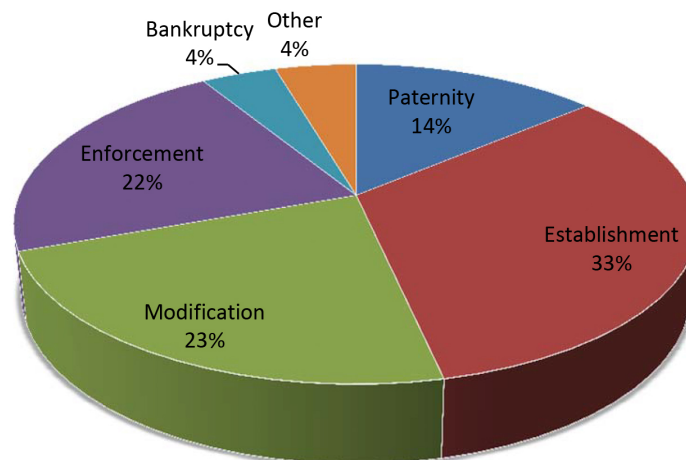
CSS Appellate Matters

In FY2017, the Appeals Unit dedicated one of its attorneys to handle all CSS appeals, with additional support provided by other team members as needed. Attorneys handling CSS appeals discuss each case with an experienced reviewer in the Solicitor General's Office, which results in resolution of many of these matters through substantive motions rather than appellate briefing. The Appeals Unit filed approximately four appellate briefs and numerous substantive motions in FY2017, and provided a great deal of assistance to CSS trial attorneys.

FY2017 Accomplishments:

- Judicially established paternity for 1,062 children.
- Established new child support orders for 3,910 families.²
- Obtained child support judgments of over \$33 million.
- Resolved 4,104 actions for modification of support.
- Filed 1,968 judicial contempt actions.
- Represented DCSS in 24,670 court appearances.
- Assisted DCSS to collect over \$346,441,375 in support.
- Contributed to increased current support collections from \$.57 to \$.58.22 for every child support dollar owed.
- In bankruptcy cases, collected \$643,898 in support, an increase of 29% from FY2016.
- In non-Family Court litigation, collected \$1,355,371 in support³; a 27% increase from FY2016.
- Created policies and litigation strategies to implement the Final Rule.
- Developed strategies and training in conjunction with the DCSS Procedural Justice Grant.

Child Support Services Section Caseload Composition



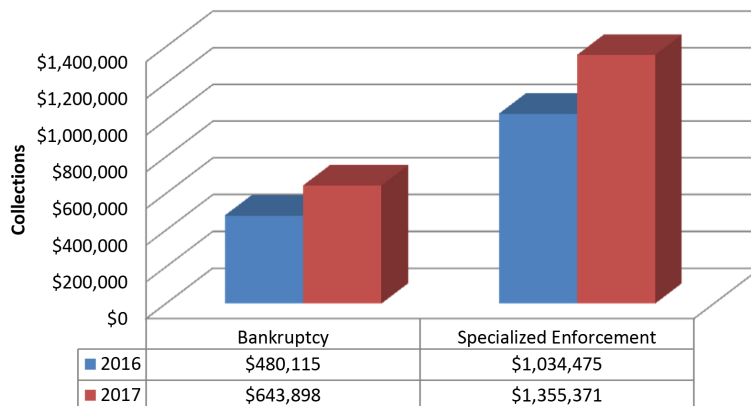
² The Arizona IV-D Child Support Program is number one in the nation with respect to its efforts in establishment of paternity.

³ Non-Family Court litigation consists of liens, insurance claim seizures, probate, and settlements.

Child Support Services Section Litigation Results



Specialized Enforcement Collections



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.

Child and Family Protection Division

CLA Appellate Matters

As noted above, the Appeals Unit's work for CLA largely consists of appeals from final agency decisions in unemployment-insurance tax and benefits cases, followed by superior court decisions regarding substantiating allegations of child abuse and placement on the DCS central registry. The Unit normally has one attorney dedicated to CLA appeals, but due to the drastic increase in unemployment benefit (UB) appeals, two attorneys have been assigned for much of the fiscal year. The Appeals Unit filed seven appellate briefs.

In FY2017, the CLA Civil Practice Team:

- Opened, litigated and/or reviewed 1,212 administrative litigation and civil cases.
- Opened and reviewed 129 contracts, leases, Intergovernmental Agreements and/or amendments. This is a decrease from FY2016 of 30.
- Obtained 505 civil judgments in civil collections cases totaling \$1,599,267.43, a decrease of 1,269,087.93 from FY2016.
- Secured an additional \$60,460.26 in civil judgment collections without the need for reducing multiple matters to a judgment. This amount decreased by \$6,538.23.
- Collected \$591,657.27 through wage and bank garnishments. Collections through wage garnishments increased by \$145,365.55.
- Filed 432 civil collections cases. Cases filed in FY2017 decreased by 263.
- Opened 103 "matter" files for tracking significant legal advice provided to ADES. The number of opened matter files decreased by 71 in FY2017.
- Responded to 981 subpoenas and requests for public records. During FY2017, the subpoenas and requests decreased by 217.

Administrative, Civil and Appellate Litigation Resolved (Cases Closed)

Program	Cases Closed
Adult Protective Services Review Team	220
Comprehensive Medical And Dental Program	7
Contracts/Leases/IGA	45
Department of Child Safety (DCS)	4
Division of Develop Disab:Grievances	60
Division of Develop Disab:Long Term Care	20
Division of Developmental Disabilities	14
Equal Employ Opportunity Comm (Matters)	6
Food Stamp Administration	11
Foster Care Licensing	14
Licensing/Agency	4
Personnel Div Of Devell Disabilities	6
Personnel Div Of Employ Of Rehab Svcs	2
Personnel Div Of Technology Services	1
Personnel Office of Inspector General	1
Protective Services Review Team	121
Unemployment Insurance Benefits	179
Unemployment Insurance Contributions	24
Vocational Rehab & Blind Services	14
Grand Total	753

FY2017 - CLA Civil Collections Unit:

Civil Collections by Program			
Program	Filed	Judgments Entered	Total Judgments
Cash Assistance	1	1	\$2,240.00
Combination Cases	6	7	\$24,896.75
Childcare Administration	1	1	\$3,831.84
Food Stamp	4	2	\$14,903.62
Unemployment Insurance Benefits	420	494	\$1,553,395.22
Grand Total	432	505	\$1,599,267.43

Civil Collections by Program		
Program	Collections Rec'd Judgment not Filed	Collections without Reducing Matter to Judgment
Combination Cases	1	\$2,160.00
Food Stamp	2	\$5,840.00
Unemployment Insurance Benefits	24	\$52,460.26
Grand Total	27	\$60,460.26

Garnishment Collection Summary	
1 st Quarter 2017	\$102,367.36
2 nd Quarter 2017	\$138,236.06
3 rd Quarter 2017	\$164,651.27
4 th Quarter 2017	\$186,402.58
Grand Total	\$591,657.27

In FY2017, the CLA Criminal Practice Team:

- Filed 317 criminal cases.
- Obtained 208 criminal sentences.
- Obtained restitution orders totaling \$810,370.10.
- Collected \$1,033,415.39 in restitution prior to sentencing.
- Obtained orders in fines totaling \$22,370.
- Obtained orders for 5,679 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	\$16,659.00	\$3,177.00	\$200.00	160
Employee Food Stamp	0	1	\$0	\$3,529.00	\$200.00	0
Food Stamp	4	8	\$40,194.00	\$36,301.16	\$750.00	140
Unemployment Insurance Benefits	313	197	\$753,517.10	\$990,408.23	\$21,220.00	5,379
Grand Total	317	208	\$810,370.10	\$1,033,415.39	\$22,370.00	5,679



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 seven Sections: White Collar & Organized Crime (WCOC) fka 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).

Criminal Division Members Receive Statewide and National Recognition

AGO Prosecutor Receives APAAC Felony Prosecutor of the Year - Assistant Attorney General Scott Blake is an accomplished prosecutor who works closely with local, state and federal law enforcement agencies on complex cases relating to terrorism and fraud. In the past year, Scott has completed three high profile trials. Scott obtained a guilty verdict in State v. Zeitner, a lengthy trial involving Zeitner faking cancer to obtain AHCCCS’s payment for a pregnancy termination. Scott also obtained a guilty verdict in State v. Nolte, which involved the defendant stealing over \$500,000 in 1997 before assuming another person’s identity and fleeing the country. Nolte was sentenced to 9.25 years in prison. Scott returned to trial in a fraud case involving Zeitner defrauding two non-profit organizations that assisted veterans. After a guilty verdict in this trial, Zeitner was sentenced to over 20 years in prison. Scott worked with the FBI’s Joint Terrorism Task Force on a case where an individual had been conspiring with an undercover FBI agent to commit an act of terrorism. Mahin Kahn pled guilty to Terrorism, Conspiracy to Commit Terrorism and Conspiracy to Commit Misconduct Involving Weapons. The charges stemmed from an investigation into Kahn’s repeated communication and conspiracy with an individual whom Kahn believed to be a fighter with ISIS. Kahn’s communications indicated he wanted to obtain weapons, including pipe bombs and pressure cooker bombs, in order to blow up an MVD office in Mesa. Kahn, only 18 years old, was sentenced to eight years in DOC with lifetime probation upon his release from prison. As a result of this case, the AGO sought to modify the state’s terrorism statutes in order to better protect the citizens of Arizona. This proposed legislation was recently signed into law by the Governor.



2017 ANOA Prosecutor of the Year goes to Brett Harames - With the recent rise of narcotic opioid and dangerous drug abuse, prescription fraud crimes have significantly increased in Arizona. Assistant Attorney General AG Brett Harames has stepped up to combat the opioid epidemic by partnering with the Phoenix Police Department's Drug Enforcement Bureau. Directly communicating with the prescription fraud detectives and through his hard work and tenacity, he has been key to dozens of successful prosecutions involving fraud, most of which were adjudicated with significant prison sentences. Over the past two years, Brett has been an integral part of the PPD prescription fraud team. Without Brett, the team feels the successes they have experienced in narcotics investigations would not have been possible. Brett is pictured with ANOA President Clint Hill.



Award for Arizona HIDTA Outstanding Prosecutor goes to Nicholas Saccone - Assistant Attorney General Nicholas "Nick" Saccone has served as a full-time prosecutor for the Maricopa County Drug Suppression Task Force (MCDST) since 2012. Although his primary focus is on narcotics, Nick wears many hats and is responsible for prosecution of every kind of drug case imaginable. He has spent numerous hours riding along with investigators in the field to have a more hands-on knowledge of the different types of cases he will have to prosecute. He has responded to meth labs, desert scout and drug

interdictions, T-III surveillance, stash houses, search warrant executions, buy/busts, illegal marijuana grows and Butane Honey Oil (BHO) extraction labs. One of the three major illicit grow cases he prosecuted involved a Drug Trafficking Organization (DTO) responsible for illicit marijuana grows/BHO extraction labs with nationwide distribution. AAG Saccone prosecuted the previous illicit grow case from which the information for this DTO was developed. Because the case involved fraudulent use/abuse related to the Arizona Medical Marijuana Act (AMMA), Nick worked with detectives to develop a way to obtain necessary information from the Arizona Department of Health Services (DHS), which regulates the AMMA. Prior to this investigation, obtaining records from DHS was a difficult process. Through their collaborative efforts, Nick and his detectives developed a



search warrant that would allow access to DHS documents while meeting the technical requirements of the AMMA. Nick is pictured with Section Chief Paula Alleman and Division Chief Paul Ahler.

OVS Team Receives Department of Justice's Crime Victims' Rights Award - In FY17, the Victim Services Agency Support Team (AST) was recognized nationally when it was presented with the prestigious "Crime Victims' Rights Award" from the U.S. Department of Justice's Office for Victims of Crime on April 7, 2017 in Washington, D.C. The team is comprised of Director, Kirstin Flores, State Victims' Rights Administrator: Compliance Colette Chapman, State Victims' Rights Administrator: Funding Kennesha Jackson and State Victims' Rights Administrator: Training Alexandra Rucker - all of whom, along with Division Chief Counsel Paul Ahler, traveled to Washington, D.C. to accept the award. The AST has created programs that advance and enforce statewide uniformity and efficiency in following victims' rights in Arizona, and has taken a unique approach by combining state funding, program audits, technical assistance, training, compliance and collaboration which has resulted in an increased awareness statewide about victims' rights, as well as increased compliance with victims' rights statutes and the Arizona

Victims' Bill of Rights. The AST members have advanced victims' rights services and increased compliance in Arizona. This award is not only evidence of their knowledge, motivation, collaboration and leadership skills, but also serves to showcase Arizona as a nationwide leader and innovator in Victims' Rights.

Legislation

On June 20, 2017 Governor Ducey signed new legislation into law amending the existing terrorism statutes. Previous to this new law taking effect, terrorism prosecutions were limited to acts against state entities. The new legislation expands the definition of terrorism to include acts aimed to intimidate or coerce a civilian population that are in furtherance of the objectives of any terrorist organization. The new legislation also includes a section prohibiting individuals from giving financial assistance to terrorist organizations and from falsely reporting an act of terrorism. After



the successful prosecution of the Mahin Khan case it was determined that changes to the existing legislation were necessary to keep up with the evolving nature of terrorist organizations. This project was spearheaded by Division Chief Paul Ahler and many others assisted with it including Assistant Attorney Generals Nicholas Klingerman, Blaine Gadow, Scott Blake and Zora Manjenchich.



From left: AG Mark Brnovich, Blaine, Zora, Scott, Paul, Senator Warren Peterson with Governor Ducey.

New Search Warrant Statutes for Tracking and Cell Site Simulator Devices - The White Collar & Organized Crime and Drug & Racketeering Enforcement Sections collaborated to write legislation for a new statutory mechanism for Arizona law enforcement to obtain search warrants to track a person or a device, and to use a cell site simulator device to

canvass device signals to identify an unknown device. In 2012, the Supreme Court of the United States held in *US v. Jones* that the attachment of a GPS tracking device to a vehicle and use of that device to monitor the vehicle's movements on public streets constituted a search or seizure within the meaning of the Fourth Amendment, which meant that post-*Jones*, police needed search warrants to track and canvass. The problem with Arizona's existing search warrant statutes was that the searches contemplated were one-time occurrences rather than tracking or canvassing searches. The lack of an adequate statute left the courts and law enforcement trying to fit a square peg into a round hole. The new legislation solved the logistical challenges by providing a clear statutory mechanism and procedure for judges and police to follow. Importantly, this legislation put Arizona at the forefront of protecting individual privacy rights by requiring police to obtain search warrants for tracking and canvassing from a neutral, detached magistrate, while enabling our Arizona law enforcement agencies to use powerful technology to help keep our communities safe. The new statutes were effective August 9, 2017. This project was spearheaded by Section Chiefs Paula Alleman and Kimberly Ortiz.

White Collar & Organized Crime (WCOC) FKA Border Crimes Enforcement Section (BCS)

White Collar & Organized Crime Section (WCOC) 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 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. WCOC also specializes in complex economic fraud, business embezzlement, public corruption and gang prosecutions. It also 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 FY17, WCOC attorneys tried five cases, obtaining guilty verdicts in all five prosecutions.

WCOC is the southern Arizona component of the AGO's Criminal Division and prosecutes all cases within the AGO's statutory jurisdiction. Generally, those cases are classified as:

1. White Collar: securities fraud, embezzlement, identity theft and money laundering;
2. Organized Crime and Criminal Enterprise: international drug trafficking and Arizona-based criminal organizations;
3. Public Corruption: bribery, obstruction of justice and misuse of public funds;
4. Elder Financial Exploitation and Abuse: AGO Special Investigations, local police department referrals and multi-county Arizona Adult Protective Services cases;
5. Internet Crimes Against Children: internet-related and associated child abuse charges; and
6. County Attorney Conflicts and Referrals: cases the county attorneys' offices cannot prosecute because of a conflict or lack of expertise.

The Section works with AGO Special Investigators, local and state police agencies and federal law enforcement to prepare cases from investigation through sentencing. Vertical prosecution relies on specialized prosecutors who become experts in particular areas of law and regularly conduct trainings for their law enforcement partners. Given its expertise, WCOC is routinely tasked with assisting law enforcement and county attorney offices on complex legal issues and is a significant component of southern Arizona law enforcement.

Additionally, in partnership with the University of Arizona James E. Rogers College of Law, the Section annually enrolls into its six credit, year-long 38(d) clinical extern program a small number of second and third year law students who want to pursue prosecution careers after graduation. Students in the intensive program complete 300 hours in the office and in court under close supervision of the Section's experienced criminal prosecutors. Since 2006, WCOC has provided an unprecedented opportunity for law students interested in becoming prosecutors to gain a thorough understanding of the fundamentals of ethical criminal prosecution and knowledge of real-life court procedure. Past students have presented preliminary hearings, argued motions and sentencings 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 WCOC 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. This year the Section is supervising five law students who are eligible to appear in court under Rule 38(d) with attorney supervision.

Overview of Accomplishments

WCOC filed new cases on 380 defendants in FY17, while managing 711 total defendants in active litigation. The section also initiated two wiretap investigations that resulted in indictments against 39 defendants. In the courtroom, prosecutors excelled with a 100% trial conviction rate, averaging 29 trial days with guilty verdicts on 77 counts. For organized crime drug interdiction, total seizures with approximate wholesale values included: Methamphetamine – 244.51 pounds valued at \$721,304.50; Heroin – 74.07 pounds valued at \$873,600; Cocaine – 142.51 pounds with an approximate wholesale value of \$1,632,160; Marijuana – 2.63 metric tons with a value of \$2,316,892; Oxycodone – 1.64 pounds valued at \$185,875; and Fentanyl – 494 pills with a value of \$6,175. WCOC also assisted 466 economic crime victims with court-ordered restitution of approximately \$902,771 and obtained approximately \$263,661 in court-ordered fines to be paid by defendants.

State v. Michael Bean - During a five-year period, Michael Bean fraudulently registered 105 individuals for community college causing the Department of Education (DOE) to disburse \$803,400 in federal student aid, of which Bean retained \$429,800. Bean committed the fraud by exploiting the Maricopa County Community College District's financial aid disbursement system, which uses debit cards to distribute (1) a \$600 book advance when students register for classes and (2) excess financial aid when students' federal student aid exceeded tuition and fees. Bean obtained federal financial aid by filing forged Free Application for Federal Student Aid (FAFSA) forms primarily using personal information that he bought from recruits. After qualifying a straw student for federal student aid, Bean then registered the straw students for courses at various colleges in Maricopa County ensuring that tuition and fees were less than their financial aid. Bean then had the debit cards mailed to various addresses in Arizona and Alabama. Bean pled guilty and was sentenced to 3.5 years in prison followed by a seven year probation term. Bean also was ordered to pay \$477,419 in restitution. This case is illustrative of WCOC's partnership with federal law enforcement partners and its effective prosecution of complex fraudulent schemes and artifices.

State v. Gustavo Felix Nunez - In March 2013, a woman arrived at Tucson Medical Center with a potentially lethal infection in her breast. She told the responding officers that she received liposuction and breast augmentation from Nunez, a person whom she believed was licensed to perform the procedure. Nunez was not a doctor, never attended medical school and, at most, was an uncertified medical assistant despite the various degrees and certifications in his office. Then in July 2013, another woman arrived at a Northwest Medical Center with

a potentially lethal infection in her buttocks, again as the result of a liposuction from Nunez. From these two reports, the AGO charged Nunez with Fraudulent Schemes and Artifices,

Aggravated Assaults and Practicing Medicine without a License. In June 2014, while on release pending resolution of the initial charges, another woman arrived unresponsive at Northwest Medical Center after a liposuction by Nunez. She spent six weeks in a coma and suffered permanent brain damage that left her minimally ambulatory as a result of the botched liposuction



and Nunez's refusal to seek prompt medical care for her. The Pima County Sheriff's Department and the DEA conducted additional investigations and discovered five other women who received liposuctions from Nunez after he lied to them about his ability to perform such procedures. Nunez pled guilty to 28 counts, including Fraudulent Schemes and Artifices, Dangerous Nature Aggravated Assaults and Practicing Medicine without a License. He was sentenced to 38.25 years in prison and ordered to pay \$6,300 in restitution to individual victims and \$19,739 to the Victim's Compensation Fund.

State v. Jesse Swaffar - The Tucson Police Department received a 911 call from Jesse Swaffar's girlfriend, who claimed she found child pornography on Swaffar's computer. TPD seized multiple computers and hard drives from Swaffar's home. A full forensic examination found thousands of pictures and videos of child pornography that had been organized into folders and stored on various electronic devices, including an encrypted hard drive. One video he possessed was a young girl being sexually assaulted by an adult male, commonly known as part of the "Vicky" series. Swaffar was indicted on ten counts of Sexual Exploitation of a Minor, convicted at trial, and sentenced to 100 years in prison. During sentencing in December 2016, "Vicky" submitted a written impact statement detailing her pain from the crimes like those committed by Swaffar. She told the court "I live everyday with the horrible knowledge that many people somewhere are watching the most terrifying moments of my life and taking grotesque pleasure in them...they are entertained by my shame and pain." At the time of his offenses, Swaffar was an active member of the US Air Force.

State v. Michael Duane Mullet - For approximately ten months, Michael Mullet worked as a plumber for Jeff Lawson, the owner of Lawson Family Plumbing (LFP) in Mesa, Arizona. LFP is a small family business and employees were trusted to handle customer payments on behalf of the company. At the time, plumbers were responsible for submitting to the office all payments for jobs assigned to them by company dispatchers. Three months into his job, Mullet figured out how to manipulate the company's invoice and billing system to embezzle customer payments. Mullet accomplished this theft while on plumbing calls for LFP by falsely telling Lawson customers he was the co-owner of the company and/or that his credit card machine was not working so customers would write checks payable to Mullet directly. Mullet would then alter the service calls in the billing system to make it appear that the job was not completed. Mullet was convicted of fraud and theft at trial and was sentenced to 10.5 years in prison. Mullet had prior state and federal convictions from the 1980s and early 1990s for white collar crimes and he also is pending trial in Pima County in June 2018 for numerous charges related to investment fraud.

State v. Scott Daniel Hudson, et al. - In February 2015, detectives assigned to the Counter Narcotics Alliance began an investigation of an illegal online marijuana dispensary operating in Phoenix, Tucson and Las Vegas, Nevada. The illegal dispensary, titled "Wellness N the 520," was not licensed to operate in Arizona or Las Vegas. The owner of the illegal dispensary, Scott Hudson, recruited delivery drivers, stash house operators and money couriers to sell and launder the proceeds gained from illicit drug sales. Detectives determined that "Wellness N the 520" operated for around two years and made conscious efforts to deceive legitimate medical marijuana cardholders about the legality of the dispensary. The dispensary would average around \$3,000 to \$4,000 in daily sales in Tucson alone. The investigation led to the seizure of over 24 pounds of high grade marijuana, approximately one pound of hash and the conviction of 13 members of the illegal dispensary. Hudson pled guilty to Conspiracy to Transport Marijuana for Sale and Money Laundering and was sentenced to six months in jail and five years of probation.

State v. Anthony Wiggins - The Tucson Police Department investigated civil attorney Anthony Wiggins for theft and fraud after receiving a referral from the State Bar of Arizona. Wiggins, a former personal injury attorney in Tucson, withheld \$70,072 in settlement funds owed two former clients. Wiggins deposited their personal injury settlements into his trust account and did not pay the clients' medical bills or give the money to the clients. Instead, Wiggins kept the money for up to six years before the State intervened. During the course of the investigation Wiggins was first suspended by the State Bar and then disbarred. Wiggins pled guilty to theft of the client funds and was sentenced to four years' probation. Both of his victims, one elderly and one mentally disabled, received full restitution at the time of sentencing. The remaining \$170,723 was transferred from Wiggins' trust account to the State Bar Client Protection Fund for victim compensation for other former clients who might come forward.

State v. Marisela Navarro - The 92-year old victim suffered from dementia but still lived alone when she hired Marisela Navarro to drive her to the store, appointments and other locations. After the victim's children noted unpaid bills and overdrafts in their mother's checking account, the evidence showed Navarro had been stealing checks from the victim, then forging and cashing them. Even after the victim's account was changed to prevent unauthorized access, Navarro wiled her way back into the house and stole more checks from the victim's new account and then stole more money from the elderly victim. After convictions at trial, Navarro was sentenced to 6.5 years in prison and ordered to pay \$2,134 in restitution.

State v. Keith Larson - After working for years as a registered financial advisor, Keith Larson exploited the trust of two clients, both vulnerable octogenarian widows, by artificially manipulating their investment products and by obtaining unsecured "loans" from the clients. He pled guilty to Attempted Fraudulent Schemes and Artifices with a restitution cap of \$700,000 and was sentenced to seven years in prison.

State v. Ralph Emiliano Martinez: Detectives assigned to the Department of Public Safety Gang and Immigration Intelligence Team Enforcement Mission (GIITEM) unit conducted an investigation of Ralph Emiliano Martinez, a felon with eight prior felony convictions, for methamphetamine sales. The investigation led to the arrest of Martinez following a search warrant of his residence. Overall, detectives recovered nearly half a pound of methamphetamine, three firearms and numerous items of drug paraphernalia. Investigators also found Martinez's seven year-old son at the residence when they conducted the search warrant, where methamphetamine, firearms and paraphernalia were easily accessible to the child. Martinez pled guilty to Dangerous Drug Sales, Misconduct Involving Weapons and Child Abuse. He was sentenced to 15.5 years in prison.

State v. Theodore Kulkens (I) - Theodore Kulkens was the Property and Evidence Section Sergeant for the Douglas Police Department (DPD) from 2007 until he was fired in 2013. In 2015, DPD discovered it was missing money that had been placed into property and evidence. Working with the DPD, AGO Special Agents determined that Kulkens had stolen over \$14,000 in cash during his time as the property custodian. Kulkens pled guilty to Theft. He was sentenced to probation and ordered to pay restitution to the DPD.

State v. Theodore Kulkens (II) - Three weeks after being placed on probation for Theft, Kulkens was arrested for transporting 224 pounds of marijuana in his work truck for his new job. When asked why he was transporting the drugs, Kulkens told detectives, in part, that he had substantial restitution to pay off in his first criminal case. Kulkens pled guilty to Transportation of Marijuana for Sale and was sentenced to five years in prison. His probation in Kulkens I was revoked. He was sentenced to a concurrent prison term for the Theft conviction.

State v. Aldo Paco et al - The High Intensity Drug Trafficking Area (HIDTA) Southeastern Arizona Major Investigative Team (SAMIT) Task Force investigated Aldo Paco and other criminal associates for marijuana

smuggling and suspected money laundering. Bank racketeering demands identified at least six people using bank accounts on behalf of the DTO and agents pinpointed one county in Florida and one county in Illinois where different accounts would receive large cash deposits on the same day, thus avoiding reporting requirements. In all, agents discovered more than \$300,000 that flowed through the accounts in a span of two years. Agents also worked with the DES and AHCCCS to identify drug trafficking organization members with thousands of dollars in cash deposits in their accounts who received AHCCCS and DES public benefits. Paco has entered a plea that requires him to spend 4.5 years in prison followed by five years of probation. Six other defendants associated with the organization were convicted based on the investigation and over \$50,000 in restitution was ordered.

State v. Robert Piper - Robert Piper was prosecuted for a fraudulent scheme where he stole ten airplanes by filing false registration documents with the Federal Aviation Administration (FAA) which allowed him to fraudulently take title of the planes. Piper first would look for neglected planes at various airports, next file false liens on those planes and then submit the false liens to the FAA to obtain title. Once he had the titles, Piper would post online ads to sell the planes on sites such as Barnstormers.com. Piper pled guilty to Theft and Forgery and was sentenced to probation in July 2015. After his guilty plea, the Marana Municipal Airport manager learned that Piper was planning on repossessing a Beechcraft Airplane and called the FBI. The AGO directed the FBI and the United States Postal Inspector to obtain a search warrant for Piper's emails. The emails showed Piper actively was trying to steal planes in California, including a plane that belonged to a nonprofit that teaches high school students how to work on airplanes. The information was referred to California law enforcement who, through the California Department of Justice, charged Piper in March 2017 with 19 felony counts. The AGO has subsequently moved to revoke Piper's probation based on the charges filed in California.

State v. Eric and Katheren Massey - As part of a joint investigation with the Department of Homeland Security (DHS), the Alcohol, Tobacco and Firearms (ATF), and the US Attorney's Office, Eric and Katheren Massey were indicted for fraudulently applying for and receiving State benefits. The Masseys, suspected to be part of a criminal organization running guns into Mexico and drugs into the United States, were found to have grossly under-reported their income on applications resulting in fraudulently receiving \$22,094 in State AHCCCS and Food Stamp Benefits. Both of the Masseys pled guilty to Attempted Fraudulent Schemes and Artifices and were ordered to pay full restitution to DES and AHCCCS. Katheren was placed on probation, while Eric admitted his prior felony conviction and was sentenced to 3.5 years in prison. Eric currently is awaiting sentencing in Federal Court on weapons misconduct charges related to possession of a firearm.

State v. Lilliana Martinez - Sky Harbor TSA in Phoenix detained Lilliana Martinez for transporting approximately five pounds of heroin concealed in the lining of her carry-on suitcase. Martinez, a frequent flyer, admitted she regularly transported heroin from Tucson to customers in North Carolina, New York, Ohio and Chicago over the previous two to three years. After delivering the heroin, Martinez then would transport US currency back to Tucson. Martinez pled guilty to Attempted Transport for Sale of a Narcotic Drug and was sentenced to 3.5 years in prison.



State v. Michael Corum - The Tucson Police Department received a report that Michael Corum, an unemployed registered sex offender, had uploaded seven photos of child pornography from his phone to cloud storage. Corum previously had been convicted of abusing a developmentally-delayed child by taking sexually explicit photos of her while he was a teacher's aide at her school. Corum's phone locked before detectives could obtain a search warrant, but police served a search warrant on the cloud storage provider and proved Corum was the individual who uploaded the child pornography. In January 2017, Corum pled guilty and was sentenced to 14 years in prison followed by lifetime sex offender probation.

State v. Martin Alberto Brockman-Nunez - University of Arizona Police stopped Alberto Brockman-Nunez for having a broken tail light and impeding traffic. Due to Brockman-Nunez being in the United States illegally, the officer called the U.S. Border Patrol who took him into custody. Officers conducted an inventory search of the Defendant's truck and found 37.2 pounds of methamphetamine wrapped in plastic wrap and hidden in a box. Brockman-Nunez pled guilty to Conspiracy and was sentenced to five years in prison.



State v. Ernesto Esquer Zazueta - While trying to cross from into the United



States at the Mariposa Port of Entry from Nogales, Mexico, Ernesto Zazueta was referred to secondary inspection where inspectors found 27.05 pounds of methamphetamine hidden in a non-factory compartment built into the rocker panels of his car. Zazueta admitted to being paid \$4,000 to transport the drugs from Mexico to Phoenix. He pled guilty to Attempted Transportation for Sale of Dangerous Drugs and was sentenced to three years in prison.

State v. Alejandro Hernandez - Tucson Police Department officers were called to a shooting at an apartment complex. Hernandez, who was on probation for assaulting a police officer, drew a gun and fought with the victim over stolen money. During the fight, the gun went off and hit the victim in the knee. The victim refused to speak to police or participate in the prosecution, but detectives and the AGO were able to obtain independent evidence establishing that Hernandez was the individual who shot the victim. Hernandez pled guilty to Aggravated Assault and was sentenced in January 2017 to 7.5 years in prison.

State v. Mario Celaya et al - Employees from a United Parcel Service store in Bisbee, Arizona contacted DEA agents, alerting them to suspicious packages being mailed to Georgia. Subpoenas to local shipping companies identified fake names and expired FedEx and UPS accounts used to ship the packages. With assistance from other police agencies, DEA successfully made controlled deliveries of packages to the recipients in Georgia, which linked prior mailings of hundreds of pounds of marijuana to these locations. DEA agents then conducted a full financial analysis and showed nearly \$750,000 in cash flowing through the accounts of identified individuals in a two year period. Mario Celaya and Bernadette Martinez, who used her mentally disabled son to launder money, have entered guilty pleas and are awaiting sentencing to terms of prison between 2-8.75 years for Transporting Marijuana, Money Laundering, and Conducting and Illegal Enterprise. Four other defendants who participated in the Money Laundering schemes were convicted and sentenced to probation.

Drug & Racketeering Enforcement Section

The 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 FY17, DRG had 783 open cases and resolved 384 of them. DRG cumulatively charged 403 defendants with felony offenses. Total drug seizures in cases for FY17 are well in excess of 7.079 metric tons of marijuana with an approximate wholesale value of \$9,364,980, 148.25 lbs. of heroin with an approximate wholesale value of \$2,045,850, 679.05 lbs. of methamphetamine with an approximate wholesale value of \$1,901,340 and 179.2 lbs. of cocaine with an approximate wholesale value of \$2,280,600. Courts ordered defendants to pay \$872,652 in drug fines as a result of DRG prosecutions.

Major Cases

State v. Brian Pardo - In October 2014, Pardo was stopped at a Border Patrol checkpoint in Ehrenberg, Arizona. Agents found \$73,000 in cash in a backpack and duffel bags designed to smuggle drugs in the bed of Pardo's truck. Pardo also had two handguns with him. Investigators believe Pardo was going to California to purchase high grade marijuana and "shatter." In June 2015, DEA Agents and the U.S. Marshals Service arrested Pardo at his Scottsdale apartment and served a search warrant there. Pardo had 1.5 pounds of shatter (which is over 6,000 doses), just under two pounds of high grade marijuana and \$80,373 in cash. In April 2017, a jury found Pardo guilty of Conspiracy, Illegally Conducting an Enterprise, Possession of Marijuana for Sale, Possession of Narcotic Drugs for Sale and Money Laundering. Pardo absconded during trial. Pardo is facing 10.5 to 35 years in prison when he is apprehended.

Investigation #CWT-446: Agents from the DEA Strike Force and Tempe Police Department continued an investigation targeting a large scale DTO operating out of Culiacan, Sinaloa, Mexico. Based upon the investigation which involved a court-authorized wiretap, investigators have successfully seized 190 pounds of methamphetamine, 21 pounds of heroin, 120 pounds of marijuana, 80 kilograms of cocaine, 700 Oxycodone pills and \$3,000,000 of illegal drug proceeds intended for the DTO in Mexico. Additionally, during that timeframe, 36 defendants were indicted for their roles in the investigation including Victor Perez-Barrera who was sentenced to 4.75 years in prison for his role in receiving and distributing quantities of cocaine and Ivan Renne Garcia-Ramirez who received three years in prison for his role in receiving and distributing quantities of methamphetamine at his auto shop in Phoenix.



State v. Danny Rich - During an investigation conducted by the DEA and Department of Public Safety (DPS), investigators learned that Danny Rich, the owner of the Flagstaff business Alpine Pizza, was operating an illegal marijuana grow. Rich was videoed conducting multiple drug transactions. Investigators then served a search warrant at Alpine Pizza and a warehouse where an illegal marijuana grow was in operation. At that location, the investigators recovered more than 200 marijuana plants and a shotgun. The investigation also revealed that Rich wanted to get his marijuana "on the street" and would trade marijuana for methamphetamine. Rich pled guilty to

Illegally Conducting an Enterprise and Misconduct Involving Weapons and is set for sentencing in late October 2017.

Investigation #CWT-489 - During FY17, the DEA and Phoenix Police Department conducted an investigation into a large Mexico-based DTO. The investigation involved a court-authorized wiretap which resulted in the seizure of approximately 205 pounds of methamphetamine, approximately 30 pounds of heroin, approximately 2.5 pounds of cocaine and approximately \$645,000 in cash and assets. Additionally, 12 defendants were indicted as part of that investigation, including Beatriz Lopez and Guadalupe Gonzalez-Figueroa who were both sentenced to four years in prison for their involvement in transporting large quantities of methamphetamine in their vehicle across the United States/Mexico border.



State v. Perry Hester, et al - Between December 2015 and April 2016, police investigated an organization that was engaging in an illegal marijuana grow, cannabis extraction and an Arizona Medical Marijuana Act fraud scheme. Detectives from the Maricopa County Sheriff's Office (MCSO) conducting the investigation determined that the suspects were operating an illegal marijuana grow out of a warehouse just west of downtown Phoenix. The suspects were illegally supplying marijuana to dispensaries in and around Phoenix. At the conclusion of this investigation, police seized over 46 pounds of marijuana, 328 mature marijuana plants, three pounds of cannabis extract and chemicals and equipment to process marijuana into cannabis. Eleven defendants were indicted for their roles in this case. All active defendants have been sentenced to probation for a period of eighteen months to two years and fines totaling \$51,240.



Investigation #CWT-491: Agents with the Arizona Financial Crimes Task Force (AFCTF), including AGO Special Agents, conducted an investigation into a DTO which included the use of court-authorized wiretaps. As a result of that investigation, agents seized 206 pounds of methamphetamine, two kilograms of heroin and \$96,000 in drug proceeds. Six individuals were indicted for their involvement in the investigation including Carlos Iribe who was sentenced to five years in prison for his involvement in distributing methamphetamine in Phoenix. In addition, Jesus Raizola Gonzalez, a prior convicted felon, was sentenced to seven years in prison for his role in coordinating the distribution of methamphetamine in Phoenix.

Investigation #CWT-486: In May 2015, detectives and agents from the AFCTF began targeting a DTO operating in Mesa, Arizona. Based upon the investigation which involved a court authorized wiretap, between May 2016 and August 2016, investigators seized approximately two kilograms of cocaine, two kilograms of heroin, eight pounds of methamphetamine, 2,000 pounds of marijuana and \$700,000. Twenty-two individuals were indicted. In the last year, approximately ten individuals pled guilty. One individual was Paulino Valencia Osornio. Osornio was identified as being responsible for organizing the shipment of various quantities of illegal drugs to states on the East coast such as Ohio, Virginia and Pennsylvania. Osornio pled guilty to multiple counts and was sentenced to 5.5 years in prison followed by four years of supervised probation upon his release.



State v. Luis Enrique Olaiz-Mora, et al - In November 2016, detectives from the Chandler Police Department utilized a confidential, reliable informant to arrange a purchase of one pound of methamphetamine from Luis Enrique Olaiz-Mora. Detectives arranged another purchase of 18 pounds of methamphetamine. The informant met with Olaiz-Mora and three other suspects. When Chandler officers moved to arrest the suspects, the suspects ran from police with at least two suspects running across Loop 202 nearly causing many collisions. All four suspects were ultimately arrested. Detectives seized 18 pounds of methamphetamine. All four suspects were charged. Olaiz-Mora pled guilty to Conspiracy to Commit Transportation of Dangerous Drugs for Sale and was sentenced to four years in prison. Prosecution on other defendants is ongoing.



State v. Juan Morales - Between May 2016 and June 2016, police performed undercover methamphetamine buys from Juan Morales. Morales had previously been identified as part of a long-term, multi-agency investigation in various Arizona counties including, Coconino, Navajo, Yavapai and Maricopa, which involved over 40 defendants. Morales sold methamphetamine to an undercover officer and an informant on two occasions. Morales pled guilty to Conspiracy to Commit Sale of a Dangerous Drug and Misconduct Involving Weapons. Morales was sentenced to 2.5 years in prison on each count.

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 required 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 and secondary recommendations and an evaluation of Western Union's Southwest Border Anti-Money Laundering Alliance was tested by a court-ordered appointed monitor pursuant to the Amended Settlement Agreement. In June 2017, the court-appointed monitor released its report indicating that Western Union successfully implemented all the recommendations and has an effective anti-money laundering program. The report was reviewed by Maricopa County Superior Court Judge Warren Granville who authored a prepared statement which he read into the record. He stated, "Neither party could have predicted in February 2010 the time, effort, resources, stops and starts, frustrations and logistical complications that would be needed to achieve the goal of 'best practices.' Those efforts and the commitment and dedication of the Arizona Attorney General's Office, the Monitor and Western Union have resulted in a much broader and longer lasting benefit to the people of Arizona and the United States than would have been accomplished by any litigation. In sum, this resolution hugely benefits the people of Arizona and puts our investigators in a better position to disrupt the flow of drug money to high level drug traffickers, protect fraud victims and identify criminals and victims involved in human trafficking."



Pictured from left: AAG Matt Conti, Western Union's Deputy Chief Compliance Officer Cherie Axelrod, Chief Compliance Officer Jacqueline Molnar, General Counsel John Dye, Osborn Maledon partner Larry Hammond, Alliance Deputy Director Carol Keppler, Osborn Maledon associate attorney Randy McDonald, BDO Consulting Director Michael Ammirabile, BDO Consulting Partner Anthony Lendez, TRAC Systems Administrator Kevin Hannah and TRAC Director Richard Lebel

Financial Remedies Section

The Financial Remedies Section disrupts and dismantles criminal organizations by investigating and prosecuting racketeering lawsuits that seek monetary judgments and the forfeiture of proceeds and property derived from 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 FY17, FRS disrupted 131 criminal enterprises and filed 226 forfeiture actions against 735 in personam defendants and in rem assets. FRS obtained 25 seizure warrants authorizing the seizure of assets worth \$8.1 million dollars. FRS successfully concluded 144 cases, obtained final judgments that forfeited assets worth more than \$16.3 million dollars and distributed over \$8,000,000 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 protects the integrity and effectiveness of forfeiture practices in Arizona by educating practitioners about this public safety and compensatory resource, 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 is currently defending the forfeiture statutes against an ongoing suit brought in federal court in 2015 challenging their constitutionality and seeking injunctive relief. FRS was also actively involved in the 2017 Legislative session during which significant changes were proposed and made to Arizona’s statutes.

FRS chairs the statewide Arizona Forfeiture Association which consists 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 continues to be a major criminal enterprise in Arizona. FRS brought enforcement actions against various types of drug trafficking in the following case examples.

State v. Juan Carlos Dorado - DEA agents in Montana initiated an investigation into a Montana man who had been identified as receiving multiple pound quantities of methamphetamine from a source of supply in Arizona. Through this investigation DEA identified the source of supply as an Arizona man, Juan Carlos Dorado. The investigation revealed that Dorado's criminal enterprise smuggled 170 lbs. of methamphetamine from Arizona to Montana from 2013-2016. Co-conspirators received between \$2,000,000 and \$3,000,000 in proceeds over the same time period from the sale of the methamphetamine. The DEA worked with Tucson agents on the Counter Narcotics Alliance (CNA) to put together a search warrant for Dorado's home. FRS became involved to recover the proceeds and operating capital of the criminal enterprise. The State seized \$306,000 in bulk cash, \$230,000 in bank accounts, the personal residence, weapons, several vehicles and items of personal property including trucks, trailers, ATVs and miscellaneous tools and equipment. FRS obtained forfeiture judgments in August and November 2016, against all of the seized property.



State v. Rodriguez - In November 2016, law enforcement agents of the DPS Border Strike Force, Pinal Highway Interdiction Team (HIT) Squad, Desert Operations Group and Pinal Gang & Immigration Intelligence Team Enforcement Mission (GIITEM) received information that the residence of 5734 N. 42nd Lane in Phoenix was being used as a drug stash house. A Customs and Border Protection aircraft provided aerial surveillance of multiple vehicles that left the residence and traveled to a location where they met another vehicle. The drivers

of the vehicles met. As the vehicles left the meeting site they were stopped by agents. The vehicles contained 28 pounds of marijuana and \$4,000 in cash. Agents obtained a search warrant for the residence and during its execution found 2,771 pounds of marijuana, \$30,260 in bulk cash, drug ledgers and other evidence of drug sales. FRS brought a forfeiture action against the properties. In August 2017 FRS obtained a judgment forfeiting both amounts of cash, one of the vehicles, the residence and various other property seized at the residence.

In re 2004 Chrysler 300M Sedan, et al - In September 2016, DPS stopped a vehicle being driven by Julio Lopez-Madueno because the vehicle's license plate had expired. Lopez-Madueno, a citizen of Mexico was also driving on a suspended license. In the vehicle DPS found more than 92 pounds of marijuana. In May 2017, FRS obtained a judgment forfeiting this vehicle used to illegally transport marijuana on Arizona's roadways.

State v. William Miller - FRS initiated a forfeiture action against \$12,000 seized from William Miller during his arrest in 2011 for crack cocaine dealing pursuant to an investigation that included a wiretap. Miller also had prior drug trafficking convictions. Miller's daughter filed a claim to the \$12,000. During the course of investigating the daughter's implausible claim, FRS learned that Miller had no legitimate source of income but had almost \$11,000 in deposits on his prison financial account and subscribed to a previously-unknown safety deposit box. FRS worked with the Phoenix Police Department to obtain warrants to search and seize the funds in Miller's prison account and the contents of his safety deposit box, which was \$28,000 in cash. A police drug detecting K9 alerted on the cash. The additional \$28,000 was added to the forfeiture case. Miller then filed a claim of his own. Miller filed numerous substantive motions, all of which were denied. At trial in March 2017, FRS presented wiretap calls and other evidence proving that Miller sold no less than \$160,800 worth of crack cocaine during the course of the investigation. FRS obtained a verdict in its favor, a judgment forfeiting the funds and a judgment against Miller in the amount of \$482,400 as treble damages for the drug sales.

Bulk Cash Smuggling

The courts have 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 re \$351,350.00 U.S. Currency, et al - In April 2016, two men from North Carolina dressed up in home-made "Pepsi" work clothes and affixed unauthorized Pepsi emblems to a cargo van in a ruse to appear like commercial Pepsi deliverymen. In fact, they were transporting a huge sum of bulk cash for a DTO. As they traveled on I-40 in Coconino County, they were pulled over by DPS for driving at a speed significantly slower than the posted limit and swerving into oncoming traffic. During the roadside stop, a DPS drug detecting K-9 alerted to a hidden compartment in the vehicle. Concealed in that compartment was over \$350,000 in bulk cash. DPS seized the vehicle, the bulk cash, a bag of marijuana and a bottle containing amphetamine and hydrocodone pills. Both men denied knowledge of the hidden cash, but a search of their cell phones revealed communications involving drug transactions and large sums of money. FRS sought forfeiture of the vehicle and bulk cash proceeds and in September 2016 obtained a judgment forfeiting those items as drug proceeds and property used to facilitate drug trafficking and money laundering.

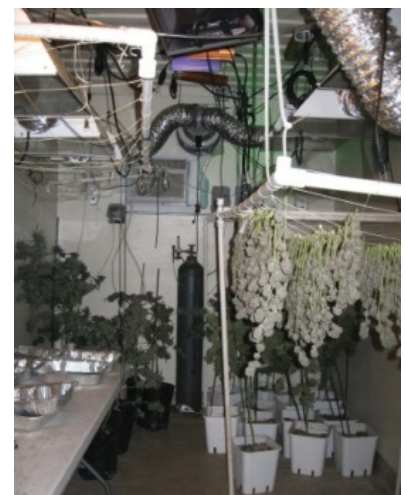
Trade-Based Money Laundering and Funnel Accounts

In FY17, FRS brought actions against over 209 identified bank accounts used to funnel over \$8,700,000 in racketeering profits from other states into Arizona for distribution to drug suppliers.

State v. Melissa Castoro, Evangelina Ceballos-Quintero and Ciao Shoes, LLC: The Phoenix Police Department and the Financial Investigations Resource Group (FIRG) became aware of and launched an investigation into a large-scale money laundering operation utilizing Casas de Cambios in Mexico to engage in laundering narco-dollars for Mexican drug cartels. This criminal enterprise employed the services of Mexican nationals engaged in lawful business in Mexico and abroad who had access to international banks operating throughout the United States. Melissa Castoro was a money courier working in the United States on behalf of a Mexican cartel. Castoro deposited narco-dollars collected from drug sales in the United States and deposited the cash into bank accounts established by these Mexican nationals and their businesses. One such account holder was Evangelina Ceballos-Quintero and her wholly owned business, Ciao Shoes, LLC. That business sold shoes, generating a “legitimate” source of income in the form of pesos, then transferred the pesos from their Mexican business bank account to the accounts of a Casa de Cambio. Casa de Cambio coordinated with the Mexican cartel and money couriers to collect narco-dollars generated from the sale of drugs in the United States, deposited those narco-dollars into the United States business bank account and then exchanged the Mexican pesos for United States dollars. This type of arrangement allowed cartels to launder American dollars generated through drug sales in the United States, convert those dollars into pesos, then transmit and deposit those funds into their bank accounts in Mexico, while also avoiding recent banking changes in Mexico that limit the amount of American currency that a person or business can deposit directly into accounts in Mexico. The deposits into United States banks were structured in amounts meant to avoid bank reporting requirements and thus maintain anonymity and avoid scrutiny by law enforcement. FRS brought an action to seize and forfeit funds in the Ciao Shoes, LLC account. In December 2016, FRS obtained a judgment against Ceballos-Quintero and Ciao Shoes, LLC, forfeiting \$359,069.87.

Arizona is among the states that have adopted a medical marijuana system. Arizona’s system authorizes a statutorily limited use and distribution of marijuana for medical purposes but prohibits conduct that falls outside those statutory parameters. FRS brings actions against those who violate the Arizona Medical Marijuana Act (AMMA).

State v. Danny Lee Rich, et al.: The Coconino County Narcotics Unit, comprised of federal, state and local law enforcement agencies, conducted an investigation of a large hydroponic grow operation in Flagstaff that included multiple controlled purchases of pound quantities of high grade marijuana by a confidential informant. Officers obtained and executed multiple search warrants resulting in the seizure of approximately 336 marijuana plants, pounds of harvested and processed marijuana, grow equipment, a shotgun and bullet proof vest, surveillance equipment, currency and other property used to conduct the illegal enterprise. The investigation also resulted in the seizure of eight large metal shipping containers modified and outfitted to be stand-alone marijuana grow rooms. FRS brought a forfeiture action against the property. Numerous claimants contested the forfeiture action. Their defense of invocation of the AMMA failed, as the investigation revealed numerous illegal acts outside the



proscriptions of AMMA, including participation in cash sales, fraudulent acquisition of medical marijuana cards, through the use of false addresses and production of over 730 pounds of marijuana, far in excess of any legal amount. A counterclaim against the State for damages was dismissed and after extensive litigation, the State obtained the forfeiture of all seized property. The claimants entered plea agreements in the related criminal prosecution to charges of Illegally Conducting an Enterprise and Misconduct Involving Weapons.



State v. Ung, et al. & *State v. Worley, et al.* - In one case, Rafael Ung and others operated an illegal marijuana and marijuana extract delivery service known as “We Love Patients,” a service they advertised online. In June 2016, the Phoenix Police Department seized from We Love Patients and its “employees” three vehicles, marijuana extract processing equipment, packaging materials, \$31,111 in cash and two weapons. In September 2016, FRS obtained a judgment forfeiting the vehicles, processing equipment, packaging materials, cash and weapons used by the delivery service in violation of AMMA. In the case of Kyle Worley, he illegally grew and sold marijuana, marijuana extract (wax) and marijuana edibles to non-cardholders from his rented house in Phoenix. In December 2015, DPS took Worley into custody and seized 19 marijuana plants; various grow equipment, packaging supplies, \$2,200 in cash and four handguns from the house. In August 2016, FRS obtained a judgment forfeiting the grow equipment, cash and weapons used by the illegal marijuana grow operation. DPS and FRS also worked with the unwitting home owner to retake possession of the house used by the renter as a base of illegal operations.

FRS also assisted other Criminal Division Sections and other State agencies by forfeiting property belonging to defendants charged with fraud, theft, embezzlement and other financial crimes in order to secure restitution to compensate victims and state agencies.

State v. Gonzales - Gonzales obtained power of attorney for his father, a retired California resident now living in Arizona who owned several real properties, when his father became ill and had to enter an assisted care facility due to the onset of dementia. Gonzales took the opportunity to sell his father’s properties for several hundred thousand dollars and convert the funds to his own use, paying off and remodeling his own house, purchasing a house for his wife’s parents, purchasing a truck, otherwise spending the funds on himself and his wife and not paying for his father’s housing and care. FSP began a criminal prosecution of Gonzales and recognized that Gonzales and his wife were dissipating assets that would be looked to for restitution. Meanwhile, the father was being threatened with removal from the care facility where he had been staying. While the Fraud Section worked with a family member to become Conservator for the father, it also turned to FRS to assist in preserving assets for restitution. FRS was able to facilitate a constructive seizure of the real properties and a seizure of the truck and funds in Gonzales’ bank account through a seizure warrant. FRS then filed a victim-based forfeiture action. Preliminary actions were undertaken that secured funds to pay for the father’s continued residence in the care facility. The Gonzales family members did not file claims in the case and FRS obtained a judgment forfeiting their interests in the property. All property is being liquidated and turned over to the Conservator who will use the funds to care for the victim.

State v. Quang Hong, dba Friendly Market - This case began as a joint investigation by the Arizona Department of Liquor Licenses and Control (DLLC) and the Scottsdale Police Department. Mr. Hong owned a liquor license that allowed retail liquor sales. Hong was previously convicted of trafficking in stolen liquor and had entered an

agreement with DLLC in 2012 to divest himself of the liquor license within six months. Instead of complying, Hong fraudulently located a straw-purchaser, entered into a fictitious purchase agreement and filed a DLLC application with false information to continue using the liquor license under the straw-purchaser's name. During the course of the investigation, detectives learned that the liquor license was being sold to a 3rd party through an escrow company. In order to preserve the value of the license and not interfere with the sale, FRS assisted detectives in making a constructive seizure of the net proceeds of the sale and serving it on the escrow company. The net proceeds amounted to over \$225,000. Those funds were made the subject of a racketeering forfeiture action by FRS. FRS then obtained a forfeiture judgment in the case.

Public benefits are earmarked for the poorest members of our state. Public benefits fraud and theft take scarce resources away from our citizens who need it most. One case example is *State v. Mayra Ramirez, dba Dulceria Mayra's y Mas*. In this case, FRS worked in partnership with the United States Department of Agriculture (USDA) and the Department of Economic Security, Office of Inspector General (DES/OIG) in an investigation into public benefits and Electronic Benefits Transfer (EBT) fraud by an authorized food stamp vendor. In downtown Phoenix, Mayra Ramirez, dba Dulceria Mayra's y Mas, engaged in improper sales and fraud involving the use of public benefit funds totaling \$607,674. Using benefit eligibility and use records, a financial analysis of vendor sales for the area, comparison to legitimate vendor practices and sales data and search and seizure warrants, FRS and its law enforcement partners assembled evidence for a fraud and money laundering racketeering action against the vendor. In the action, FRS recovered over \$300,000 acquired by this vendor in providing a market for the wrongful expenditure of public assistance benefits.

In re Nine Transmissions and Other Contraband - DPS and the Arizona Department of Transportation, Motor Vehicle Division, enforce the contraband vehicle statutes. In one such case, they investigated activity at Twitch Build, a repair shop in Phoenix that provides low cost auto repairs. In September 2016, DPS seized nine transmissions and an engine from Twitch Build that the operators of the shop claimed they purchased from a private party advertising on Craigslist. In each instance, the identification number of the auto part had been removed or destroyed and the original identification number could not be restored. In December 2016, FRS secured a judgment directing the contraband vehicle parts be disposed of pursuant to A.R.S. § 28-4594(C). FRS litigates these contraband vehicle cases as part of its efforts to undermine the profitability of this type of criminal industry, deter auto theft and its marketplace and protect consumers and legitimate auto repair services.

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, sexual exploitation of a minor and handles a variety of conflict matters from other counties. In FY17, Fraud AAGs completed seven jury trials with all guilty verdicts.

Overview of Accomplishments

In FY17, FSP had 1167 open cases and resolved 425 of them. FSP cumulatively charged 492 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 2,278 victims and obtained restitution in excess of \$8,927,128 in addition to \$157,157 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. Thomas Daniel - In June 2016, Thomas Daniel was charged with First Degree Premeditated Murder and Arson. Daniel is alleged to be involved in the murder of 65-year-old victim, Linda Garrett who was a longtime resident of Quartzsite, Arizona. In August 2012, Quartzsite Police and Fire Department responded to a trailer fire. During firefighting operations, firefighters located and recovered Linda's body. An autopsy determined Garrett suffered and died from several stab wounds. DNA evidence led to Daniel's arrest. Prosecution is ongoing.

State v. Jason Bullard and Rockney Martineau - In February 2016, Jason Bullard and Rockney Martineau were charged with Attempted Fraudulent Schemes and Artifices, Illegally Conducting an Enterprise and Forgery. Bullard and Rockney have a criminal history of being arrested and convicted of crimes where they have filed fraudulent Quitclaim deeds against property where they have no legal standing. In December 2015 the Maricopa County Recorder's Office contacted the AGO and the Mesa Police Department because Bullard and Martineau filed another fraudulent Quitclaim deed and Martineau attempted to pay the filing fees with his personal Wells Fargo Bank checking account. The fraudulent Quitclaim Deed indicated it was completed on November 10, 2015 and is connected to a property located at 2228 E. Jaeger in Mesa. The fraudulent Quitclaim Deed also indicated Richard Shroyer as the property owner and he was Quitclaiming the property to the Jason Corey Bullard Trust. According to the Maricopa County Assessors' website, the property is owned by Marilyn Stromsness who stated she was not selling the property, nor did she know Bullard, Martineau or Shroyer. In May 2017 the defendants were convicted at trial of Attempted Fraud Schemes, Illegal Control of an Enterprise and Forgery. After a lengthy sentencing hearing in October 2017, Bullard was sentenced to 20 years in prison and Martineau was sentenced to 18 years in prison.

State v. Michael and Kimberly Gonzales - Joseph and Marjorie Gonzales, saved their entire lives for their retirement. Joseph and Marjorie assigned Power of Attorney to their son, Michael and daughter-in-law Kimberly, as well as opened a joint bank account with them in 2013. By 2015, both Joseph and Marjorie were suffering from dementia and Marjorie died in January 2016. Michael and Kimberly began withdrawing thousands of dollars weekly from the joint bank account with Joseph and Marjorie's life savings. A total of almost \$100,000 was spent on improvements to their home in Casa Grande which included a new pool, floors, bathroom remodel, solar roof, furniture and landscaping. They also used the money to go on vacations, cruises and purchased vehicles for their own personal benefit. The defendant's even bought Kimberly's parents a home with Joseph and Marjorie's money. Although defendant's originally paid for Marjorie and Joseph's care, over time, they depleted the bank account.

In May 2016, the care facility that Joseph was living in was no longer being paid and was in arrears of nearly \$20,000. At that time, Joseph's daughter realized there was a problem and alerted the AGO. In November 2015 Michael and Kimberly Gonzales were charged with Theft and Unlawful use of Power of Attorney. In February 2017, both defendants pled guilty to Theft and Unlawful Use of Power of Attorney. In less than three years, defendant's spent Joseph and Marjorie's entire savings totaling \$604,988. In March 2017 Michael was sentenced to two years in prison and Kimberly was sentenced to 2.5 years in prison. Both defendants will be placed on probation for four years after they are released from prison. Defendants' acquired assets were seized for victim restitution for Joseph.

State v. Floyd Eugene Warter and Jessica Mertens - Investigators from Mesa Police Department's Human Exploitation and Trafficking (HEAT) Squad learned that a condo leased by Floyd Warter was being used as a front for a ring of women who were engaging in prostitution activity. Warter and Jessica Mertens worked together to recruit and organize a group of adult women to advertise prostitution services on Backpage.com. They would collect a share of the illegal proceeds from the women's prostitution activities. Both Mertens and Warter pled guilty to Illegal Control of an Enterprise and Pandering and are pending sentencing.

State v. Connie Villa - On December 25, 2013 Connie Villa called her ex-husband to her house to visit their children on Christmas Day. When he arrived, she lured him inside the residence and stabbed him in the back and shoulders. He ran out of the front door and went to the hospital where he called the Casa Grande Police Department. Villa also gave small amounts of prescription pills to her three youngest children in an effort to kill them. Her 13 year old daughter Ania refused to take the pills. Villa then took her into a bathtub, sat on her and held her hands over Ania's mouth and nose until she suffocated to death. When police arrived at the Villa home, they found her on the bed surrounded by her three youngest children who were sleeping or passed out from the pills. She also attempted to stab herself in the chest. She was taken into custody where she was interviewed by police and admitted to the crimes, including stabbing her ex-husband, the murder of her daughter, Ania, and the attempted murders and child abuse of her youngest three kids. Villa pled guilty to numerous counts including First Degree Premeditated Murder, Attempted Murder, Kidnapping and Child Abuse. At the settlement conference, where the victims were present, Villa entered a guilty plea to all the charges and was sentenced to natural life in prison without parole plus 155.5 years for her crimes.

State v. Zakary Capps - HSI began an investigation relating to online email-based sexual exploitation of a minor. A search warrant was executed on Zakary Capps's home and electronic media, revealing numerous images of child sexually exploitive material. In addition, there was a homemade video on the phone of a young child performing oral sex on the Capps, who was 17 or 18 years old at the time. Further investigation revealed that the child in that video was his four year old niece. Capps' aunt refused to cooperate with HSI and AGO in the prosecution and disappeared with the child, but Capps eventually entered a plea. Capps was sentenced to 25 years in prison for possession of sexually exploitive images of children and attempted sexual conduct with a minor and was ordered to supervised sex offender lifetime probation following his release.

State v. Jason Scott Rogers - Jason Rogers was in active duty military when two young men living in Gilbert, Arizona began disclosing that he had sexually abused them for a number of years. Upon investigation, it was determined that the abuse happened in both Maricopa and Pinal Counties during years when the boys were teenagers. The boys were unable to give specific dates or incidents due to trauma-related memory issues, but Rogers was arrested by military police and he admitted to sexually abusing both teenage boys before he joined the Army. He

was extradited back to the United States from his post in Germany and eventually entered a plea to 18-22 years in prison. After hearing from the victims, Rogers was sentenced to 20 years in prison, followed by lifetime sex offender probation.

State v. Lamar Sila - Goodyear Police Department began an investigation relating to Lamar Silas as one of the main members of a prescription pill ring that was presenting forged scripts to pharmacies throughout Phoenix. Members of the prescription pill ring acquired the identity of a number of local doctors, creating forged scripts using the doctors' identities. The pills were then being shipped to Nevada where it is believed they were being sold. Silas pled guilty to Aggravated Taking the Identity of Another Person or Entity, Attempted Sale or Transport of Narcotic Drugs and Forgery. In April 5, 2017, Silas was sentenced to 3.5 years in prison followed by 18 months of probation.

State v. Mahin Khan - Mahin Khan was accused of plotting with a person who he believed to be an ISIS operative to build and detonate a pipe bomb at an 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 and charged with three felony counts, including Terrorism, Conspiracy to Commit Terrorism and Conspiracy to Commit Misconduct Involving Explosives. In November 2016 Khan pled guilty to Terrorism, Conspiracy to Commit Terrorism and Conspiracy to Commit Misconduct Involving Weapons. He was sentenced to eight years in prison followed by a term of lifetime probation. This was the first successful prosecution under Arizona's Terrorism statutes codified under A.R.S. § 13-2308.01. After this successful prosecution the AGO successfully lobbied the Arizona Statute Legislature to amend the terrorism statutes to expand the definition of terrorism to include threats on civilian populations.



State v. Melissa Talal - Melissa Talal while as an employee with the Cancer Support Community - Arizona (the Wellness Community of Arizona at the time) made over \$150,000 in unauthorized purchases using a credit card issued to her by the organization. An investigation conducted by AGO Special Agents revealed that Talal embezzled \$40,000 from the organization by manipulating the organization's payroll. The Cancer Support Community - Arizona is a nonprofit organization that provides support to people diagnosed with cancer and their families. Talal pled guilty to Theft and Fraudulent Schemes and Artifices and in September 2016 was sentenced to two years prison followed by three years of supervised probation.

State v. Mary Ellen Beck - AGO Special Agents found that between August 2012 and May 2015, Mary Ellen Beck, a Maricopa County Adult Probation Officer, received money orders from probationers intended for payment to the Clerk of the Court and instead deposited that money into her personal bank account. Beck received these money orders from individuals on probation and in many cases instructed the probationers to leave the money orders blank. A total of 95 money orders were traced to Beck's personal bank account. In December 2015, Beck was charged with Fraudulent Schemes and Artifices, Theft, Forgery and Money Laundering. In October 2016, Beck pled guilty to Fraudulent Schemes and Artifices and Forgery and was sentenced three years in prison, four years' probation and ordered to pay restitution in the amount of \$74,539. She was also required to forfeit all of the State's contributions to her retirement plan and to pay full restitution to the victims.

State v. Elda Graciela Margez De Zamora - In May 2016, AGO Special Agents received a referral from the Phoenix Police Department regarding an unlicensed dental and orthodontic office being operated by an unlicensed dentist. The makeshift dental office was located inside a Phoenix apartment and operated by a tenant who went by the nickname “Mama Elda.” She was later identified as Elda Graciela Margez De Zamora. An undercover Special Agent set up an appointment and observed De Zamora treating patients prior to his scheduled appointment. The waiting area was set up in the apartment living room arranged in a manner similar to a lobby or waiting room at a doctor’s office with chairs and magazines. The Special Agent also saw dental instruments, dental trays and a bed that appeared to be set up as a dental chair. Additionally, adjacent to the bed was what appeared to be dental instruments used by dentists, dental hygienists and orthodontists such as an air/water syringe, saliva ejector and a high water evacuator. De Zamora reportedly resides in Mexico and would drive to Phoenix to perform dental services for cash. In May 2016 De Zamora was indicted on Fraudulent Schemes and Artifices and Practicing Dentistry without a License. In July 2016 a bench warrant for De Zamora was issued as she failed to appear at an initial pretrial conference.



State v. Lukeroy Rose - Lukeroy Rose operated telemarketing “boiler rooms” in Phoenix for two years. Rose’s company called elderly victims across the country and solicited them to invest in fictitious work-from-home business opportunities. At least 16 victims were tricked into investing \$3,000 to \$40,000. In May 2016, Rose was indicted on charges of Conspiracy, Illegally Conducting an Enterprise, Participating in a Criminal Syndicate, Fraudulent Schemes and Artifices, Theft and Money Laundering. Rose was released from custody in August 2016 on bond pending trial. In December 2016, the AGO learned Rose was operating another telemarketing room, a violation of the new telemarketing statute. At that time, he was again indicted on Unlawful Telephone Solicitations. Rose pled guilty to Conspiracy to Commit Theft, Fraudulent Schemes and Artifices and in February 2017 was sentenced to 3.5 years in prison. Rose also guilty to making Unlawful Telephone Solicitations and Operating a Fraudulent Telemarketing Business and sentenced to 1.5 years in prison. The Arizona Telephone Solicitations statute, amended in August 2016, makes it a class 5 felony for unregistered telemarketers to make unlawful calls to in-state and out-of-state consumers. This was the first criminal prosecution resulting from Arizona’s new telemarketing statute.

State v. Stephen Joseph Varga - Joseph Varga, formerly a licensed dealer at the Gila River casino, was convicted for his role in operating an illegal sports gambling ring. Varga was known to solicit gamblers while on duty at the casino. During an investigation by the Arizona Department of Gaming an undercover agent was recruited to join the ring. Varga was arrested after the agent placed several illegal bets through Varga, who collected funds from the agent. In July 2016, Varga was sentenced to two years of probation for Attempted Promotion of Gambling and was ordered to pay over \$23,000 in fines and costs of investigation. As a result of his conviction, Varga lost his job and his license to act as a dealer at licensed casinos in Arizona.

State v. Marc Rico Miller - MCSO began this investigation to identify individuals making graphic depictions of child sexual exploitation available through online file sharing services. After tracing Marc Miller’s IP address, a search warrant was executed at Miller’s residence in New River in April 2016, where agents discovered almost

two dozen images and videos of child pornography on Miller's computer. Miller was arrested and he confessed to obtaining and sharing the images over a peer-to-peer computer network. In October 2016, Miller was sentenced to 12 years in prison for Sexual Exploitation of a Minor. The prison term will be followed by a consecutive term of lifetime probation which will include sex offender terms. Miller will be required to register as a sex offender.

State v. Danny Lee Wallace - Danny Wallace was identified by investigators from the Phoenix Police Department after a parent reported that Wallace had posed as a 23-year-old lesbian online and "catfished" the victim, the complainant's 15-year-old daughter. Using chat programs, text messages and social media, Wallace created a persona "Veronica" and convinced the victim to fall in love with "her." Wallace then persuaded the victim to take exploitative pictures of herself and to send them to him. These photos were found in Wallace's possession at the time of his arrest, along with a teddy bear that the victim had sent to "Veronica." Wallace sent repeated, harassing messages convincing the victim that "Veronica" was going to commit suicide, twice causing the victim to be involuntarily hospitalized with her own mental health issues. In April 2017, Wallace was sentenced to eight years in prison for Commercial Sexual Exploitation. The prison term will be followed by a consecutive term of lifetime probation for Sexual Exploitation of a Minor which will include sex offender terms. Wallace will be required to register as a sex offender. Wallace was also ordered not to have any contact with the victim or her family after his release and was ordered to pay over \$2,000 in restitution.

State v. Timothy Eugene Stapp - Timothy Stapp was convicted of falsely representing himself to be a licensed contractor by using the license numbers of his former employer without that employer's permission. Stapp then entered into a remodeling contract with the victims, received payment for work that was to be performed pursuant to the contract. He never performed the work or returned the victims' funds. In June 2017, Stapp was sentenced to three years of supervised probation to include white collar terms and was ordered to pay restitution in excess of \$15,000 to the victims.

During the year, the AGO obtained two convictions of voters who voted twice in the 2012 Presidential Election. Those convictions are as follows:

State v. Gerald Bernard Sack - The Colorado Secretary of State, referred this matter to the AGO for investigation and prosecution. Gerald Sack voted an early ballot in the 2012 General Election in Colorado and also in Arizona. Documents matching name, date of birth, last four numbers of SSN were obtained. In July 2017, Sack pled guilty to Attempted Illegal Voting and was sentenced to 12 months supervised probation and ordered to pay a fine in the sum of \$4,575.

State v. Adam Bruce Hallin - Adam Hallin voted on an early ballot in the 2012 General Election in Colorado and also in Arizona. Documents matching his name, date of birth, last four numbers of his SSN were obtained. In July 2017, Hallin pled guilty to Attempted Illegal Voting and was sentenced to 180 hours of community service and ordered to pay a fine in the sum of \$4,575.

State v. Dianne Butler - Dianne Butler systematically drained all of her vulnerable mother's retirement account proceeds due to her habitual gambling. In June 2017, Butler pled guilty to Theft of Vulnerable Adult and Unlawful Use of Power of Attorney. In June 2017, Butler was sentenced to 4.5 years in prison followed by five years of supervised probation with white collar terms. Butler was also ordered to pay restitution in the amount of \$789,748.

State v. Brenda Busse - While serving as the Bookstore Manager for Tolleson Union High School (TUHS), Brenda Lynn Busse stole more than \$120,000. From July 2007 to June 2011, Busse stole cash payments made to the TUHS bookstore by parents and students for various fees and extracurricular activities. Busse manipulated computer dates to conceal the theft. The investigation started when district officials noticed irregularities in TUHS bookstore revenue records and notified the Office of the Auditor General and the AGO. In February 2017, Busse pled guilty to Fraudulent Schemes and Artifices and Theft and was sentenced to 1.5 years in prison followed by supervised probation for four years after she is released from prison. She was also ordered to pay \$120,707 in restitution.

State v. Lynna Dawn Swann - A Tempe Police Department investigation revealed that Swann embezzled \$58,158 from Treehouse Realty Group. Treehouse Realty is a property management group and receives multiple checks and money orders as payment from their clients. A company audit discovered Lynna Swann was stealing those money orders and checks. Swann had \$10,000 in checks and money orders in her purse when confronted by her employer. Tempe Police identified approximately 100 money orders that were deposited into Swann's account that were made out to Treehouse Realty. Swann used a thick sharpie to write her name on the money orders and then deposited the money orders into her account. At the time of this offense, Swann was on probation for stealing from her previous employer. In April 2017, Swann pled guilty to Fraudulent Schemes and Artifices and Theft and was sentenced to 6.5 years in prison followed by three years of probation with white collar terms. She was also ordered to pay \$58,158 in restitution.

State v. Patrick Pina - In March 2016, undercover deputies from the MCSO purchased a half-ounce of methamphetamine at Patrick Pina's home in Wittmann, Arizona. MCSO obtained and served a search warrant for Pina's home. Upon authorities' arrival, Pina ran into his home and barricaded himself inside. After deputies successfully detained Pina, they found methamphetamine, weighing scales, packing baggies, a ledger, marijuana and a gun. In October 2016, Pina was convicted at trial for the Sale of Dangerous Drugs, Possession of Dangerous Drugs, Money Laundering and Possession of Marijuana and was sentenced to 17.5 years in prison.

State v. Roy Ramey, III - From June to August 2016, MCSO Detention Officer, Roy Ramey, III, used his position to take a female inmate out of her cell on two occasions for private, fictitious "medical appointments" at the Medical facility. Once in a private room within the Medical facility, Ramey had the inmate perform oral sex on him. On two additional occasions, Ramey entered the inmate's cell and groped her. The victim reported that the sexual contacts were not consensual. Ramey was indicted on several counts of Unlawful Sexual Contact with an Inmate. Ramey pled guilty to Unlawful Sexual Conduct. He was sentenced to one year in prison, followed by a ten year term of supervised probation with sex offender terms. On the date of sentencing, the judge stated that the prison term was appropriate in light of Ramey's abuse of power, as well as the need to deter all others with like positions from engaging in similar conduct.

State v. Sharita Smith - In 2014, Sharita Smith worked for American Express in the collections department. During an annual review, American Express discovered that Smith accessed customer records to steal the customer bank account numbers and routing numbers. Smith then used the customers' bank information to pay for her personal credit card accounts, auto loan and water bills. Scottsdale Police Department's investigation revealed that Smith even directed an American Express customer's credit card payment to her personal credit card account, causing her to have a \$17,000 overpayment. She then requested American Express to deposit \$17,000 into her personal bank account. Smith pled guilty to Theft and was sentenced to one year in prison and ordered to pay \$54,314 in restitution to the victim.

State v. Jamie Canela - In 2015, Jamie Canela stole mail from at least 12 different people to obtain checking information, checks, convenience checks, replacement debit cards along with social security numbers and birth dates. Some victims did not even realize that Canela had stolen their mail because Canela only stole a couple of pieces of mail at a time to deceive victims. The investigation by the United States Postal Inspector's Office (USPIO) revealed that Canela stole \$54,314 by using victims' debit cards and checking information. Canela pled guilty to Aggravated Taking Identity of Another Person and Money Laundering. She was sentenced to 4.5 years prison, followed by five years of probation. She was also ordered to pay \$54,314 in restitution.

State v. David Bounds - In April 2006, David Bounds, along with another white supremacist gang member, arranged to meet Christopher Robin Gromberg in the parking lot at Lake Havasu Island Mall in Lake Havasu, Arizona. Bounds used a ruse to lure Gromberg into meeting up by claiming he wished to attend a concert with Gromberg that night. Bounds told Gromberg he and the second gang member would drive to Kingman from Phoenix and Gromberg was to drive the rest of the route to the concert. Bounds never had any intention to attend a concert. Instead, Bounds sought to meet with Gromberg for the sole purpose of murdering him. Shortly after meeting Bounds in the parking lot Bounds positioned himself in the back seat of the car directly behind Gromberg who was in the driver seat. Bounds then shot Gromberg twice in the back of his head using a .22 semi-automatic handgun. Bounds fled the scene, leaving Gromberg's body in the driver seat and returned to Phoenix. At the time of the murder Bounds believed Gromberg had cooperated with law enforcement in the homicide investigation of a fellow white supremacist gang member. In October 2011, Bounds was indicted on First Degree Murder, Conspiracy to Commit First Degree Murder, Participating in a Criminal Street Gang and Misconduct Involving Weapons. In August 2016, Bounds pled guilty to First Degree Premeditated Murder and sentenced to life in prison with eligibility for parole only after Bounds had been incarcerated for 25 calendar years.

State v. Eric Olsen - Eric Olsen was a ranking member of the Aryan Brotherhood criminal street gang. On two occasions he sold methamphetamine to a confidential informant for the purpose of aiding Aryan Brotherhood members released from prison and to send the proceeds from the illegal drug sales to gang members who were incarcerated at the time, for the purpose of promoting the interests and business of the gang. In April 2016, Olsen was indicted on Conspiracy, Sale or Transportation of Dangerous Drugs, Money Laundering in the Second Degree, Use of Wire Communication or Electronic Communication, and Assisting a Criminal Street Gang. In November 2016, Olsen pled guilty to Attempt to Commit Possession of Dangerous Drugs for Sale and Assisting a Criminal Street Gang and was sentenced to 16 years in prison followed by four years of intensive probation. Olson was also ordered to reimburse the FBI \$3,200 for costs incurred by the investigation. .

State v. Brent Forrest - In December 2015, Detectives from the DPS Career Criminal Unit launched an investigation of Registered Nurse Brent Forrest. Detectives identified three separate occasions where Forrest sold methylenedioxymethamphetamine (MDMA), also known as "ecstasy" or "molly," in close proximity to Brophy College Preparatory Academy. In January 2016, DPS served a search warrant on Forrest's residence where detectives seized approximately 200 tablets of MDMA, as well as marijuana, psilocin, also referred as "mushrooms" a dangerous drug and various items of drug paraphernalia. In February 2016, Forrest was charged with numerous counts including Sale or Transportation of Dangerous Drugs, Money Laundering, Possession of Dangerous Drugs for Sale and Using a Wire or Electronic Communication to Facilitate Sale of Dangerous Drugs. In July 2016 Forrest pled to Sale or Transportation of Dangerous Drugs and Facilitation of Sale or Transportation Dangerous Drugs and he was sentenced to four years in prison. Forrest's professional nursing license was revoked as well.

State v. Jay White - Jay White was a member of the Broadway Gangsters criminal street gang who were trafficking in heroin and firearms between January, 2016 and April 2016. On six occasions, White sold heroin to an undercover Phoenix Police Department detective. During these transactions White was armed and discussed selling firearms to the detective as well. In August 2016, White was charged with Sale or Transportation of Narcotic Drugs, Money Laundering in the Second Degree, Misconduct Involving Weapons and Possession of Drug Paraphernalia. In March 2017, White pled guilty to Committing Sale or Transportation of Narcotic Drugs and Misconduct Involving Weapons and was sentenced to 9.25 years in prison.

State v. Rufus Gary - Between June 2016 and August 2016, Rufus Gary, a known member of the Southern Crips gang was trafficking cocaine base out of his apartment. Gary sold crack to an undercover detective on three occasions. A search warrant was executed on the apartment and White was in possession of a .357 revolver and additional cocaine base and proceeds from his drug sales. In August 2016, Rufus was charged with Sale or Transportation of Narcotic Drugs, Money Laundering in the Second Degree, Misconduct Involving Weapons and Possession of Drug Paraphernalia. In January 2017, Rufus pled to Conspiracy to Commit Sale or Transportation of Narcotic Drugs and was sentenced to 9.5 years in prison and two years of supervised probation for Misconduct Involving Weapons to be served upon his release from prison.

Health Care Fraud & Abuse Section

The Health Care Fraud & Abuse Section (HCFA), also known as the Arizona Medicaid Fraud Control Unit, investigates and prosecutes health care fraud crimes that impact the State's Medicaid program known as 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 investigates and prosecutes 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

HCFA continues to be recognized as a national leader among the nation's 50 Medicaid Fraud Control Units (MFCU). According to the federal Health & Human Services Statistical Data Report for FY16, Arizona ranked second in the number of indictments per staff size and in the number of criminal convictions per staff size as compared to all 50 MFCUs nationwide. 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 the FBI. These collaborative efforts have been essential in combating the enormous problem of health care fraud related to prescription drug crimes. HCFA personnel regularly attends 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, the International Association of Financial Crimes Investigators, Arizona State Elder Abuse Prevention Coalition, US Attorney's Health Care Fraud Task Force, Mohave Area General Narcotics Enforcement Team (MAGNET), Yavapai County Partners Against Narcotic Trafficking (PANT), Yavapai County Elder Abuse Coalition and Adult Protective Services/Area Agency on Aging Response Team meetings.

During FY16, HCFA received 135 allegations/complaints regarding fraud, patient abuse and the financial exploitation of vulnerable adults. Of that number, 101 new cases were opened for full investigation which comprised of 77 fraud cases and 24 patient abuse/financial exploitation cases. HCFA charged 68 defendants, sentenced 46 defendants and 94 cases were closed while 55 of those resulted of felony convictions. In addition, HCFA participated jointly with other states' MFCUs and the US Department of Justice in over 50 civil cases that targeted national health care and pharmaceutical companies that engaged in improper trade practices. In FY17, ten cases reached settlements and as a result of the AGO's participation, \$1,618,554 was recouped from the companies involved and returned to state government.

Major Cases:



State v. Mary Louise Gonzalez - Caregiver Mary Gonzalez had worked for 5 different personal care service agencies over five years and provided in-home personal care services to at least 35 elderly patients around the Valley, some of whom received their care in AHCCCS funded long-term care facilities. AGO Special Agents working with a detective from the Paradise Valley Police Department, discovered that Gonzalez was also stealing her patients' jewelry, coins and other valuables. The investigation revealed that Gonzalez had stolen from approximately 28 patients, selling 87 items to area pawn shops. The value of the items that Gonzalez stole was estimated at \$29,680. In May

2014, Gonzalez was indicted on 30 charges of Theft and Fraud related charges. In December 2016 Gonzalez pled guilty to Trafficking in Stolen Property and Forgery. In January 2017, Gonzalez was sentenced to 2.5 years in prison, following 2.5 years of probation. Due to the investigation, the AGO Special Agent was able to recover the victim's stolen wedding ring where it was presented to her by the agents along with the Attorney General.



State v. Mohamed Shahin - In July 2015, HCFA was notified that a 79 year-old AHCCCS patient had died after being dropped off by a non-emergency medical transportation driver who was contracted through AHCCCS for wheelchair-bound patients. The driver, Mohamed Shahin, dropped off the patient at his former residence rather than at the assisted care facility where the driver had been dispatched. The victim had not lived at his former residence for approximately a month, so no one was at the home to bring him inside or protect him from temperatures that surpassed 100 degrees. AGO Special Agents along with detectives from the Peoria Police Department believed that the resident had been outside the home for ten hours when he was discovered dead at 11:00pm. In April 2016, Shahin was charged with Manslaughter, Vulnerable Adult Abuse, Endangerment and Forgery. In September 2016, Shahin pled guilty to Negligent Homicide and Vulnerable Adult Abuse and was later sentenced in February 2017 on the Negligent Homicide charge to one year in jail flat followed by three years of probation. As for the Vulnerable Adult Abuse charge, Shahin was sentenced to ten years of supervised probation with an additional deferred jail term.

State v. Loren Scott Wesse - This case stems from a joint investigation conducted by AGO Special Agents and the DEA. In June 2016, a veterinary supply company contacted DEA after a Tucson podiatrist, Dr. Loren Wessel, made a purchase of more than 5,000 oxycodone tablets. Investigators quickly learned Wessel was filling forged prescriptions for narcotics by using the name of a local doctor at a Tucson pharmacy. Investigators believe Dr. Wessel was not providing the oxycodone to others but was writing the prescriptions to feed his own addiction. In September 2016, Wessel was charged with Fraudulent Schemes and Artifices, Acquisition of a Narcotic Drug by Fraud and Forgery. In May 2017, Wessel pled guilty to Forgery and sentenced to three years of supervised probation along with voluntarily surrendering his DEA registration number.

State v. Sonia Acedo, et al - The investigation produced evidence that Sonia Acedo stole a checkbook and several pieces of jewelry from a patient at the Tucson care home where she was employed. Her co-defendant, Christopher Zoellner's role in the crime was to pawn several pieces of the patient's stolen jewelry and he also attempted to cash a stolen check belonging to the elderly victim. In July 2016, Acedo pled guilty Theft and Financial Exploitation of a Vulnerable Adult and was sentenced to three years' probation and ordered to pay \$3,800 in restitution. In July 2016, Zoellner pled guilty to Theft and Financial Exploitation of a Vulnerable Adult and was sentenced to 2.5 years in prison.

Office of Victim Services

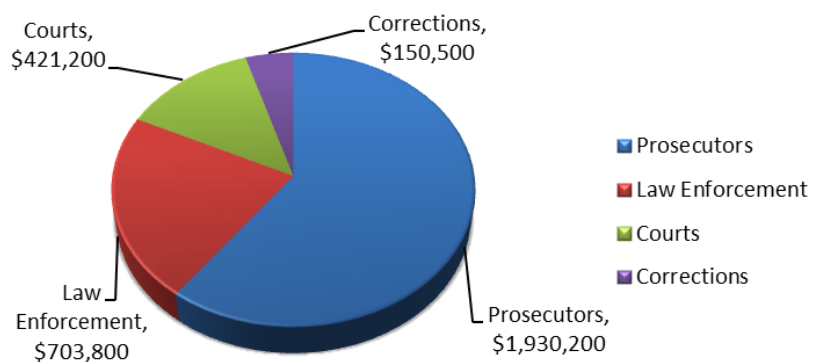
The mission of the Office of Victim Services is to promote and facilitate justice and healing for people affected by crime in Arizona. OVS provides a variety of services to victims in cases in which the State is represented by the AGO. In addition, OVS provides financial and technical support to state, 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 FY17, victim advocates provided over 24,000 mandated and nearly 56,000 non-mandated services to more than 8,300 victims.

OVS has continued to search for ways to serve victims in Arizona more effectively and in FY17 OVS successfully applied for new federal VOCA grant funding to hire three additional advocates to staff the newly created Investigations-based Victim Assistance Project (IVAP). The IVAP program was developed to embed OVS advocates within SIS to assist and advocate for victims during the investigation period, to assume some victim contact and to provide

FY 2017 VRP Funding by Entity Type



statutorily mandated victims' rights to ensure the AGO is in compliance with state victims' rights laws. IVAP advocates are liaisons between the victim and the AGO providing empathetic listening, crisis intervention and referrals for assistance to meet the needs of the victims. IVAP advocates go into the field with Special Agents to conduct welfare checks, assist at scenes when appropriate, schedule and attend other meetings with the victims and/or victims and agents. These services assist crime victims to stabilize their lives after victimization and to understand and participate in the criminal justice system. While the program is still in the growing stage, statistics suggest that the program is already having an impact to the victims by allowing our office to increase our compliance with victims' rights statutes and by enabling agents to have access to a valuable resource they have not had in the past. Over the next FY, OVS aims to continue the expansion of victim contact and agent engagement that is made possible through the program.

At the state level, OVS continues to participate and serve as a leader on victims' rights issues. As part of its statewide compliance efforts, the Agency Support Team (AST) received and investigated 33 allegations of victims' rights violations statewide and audited nine agencies who received funding from the Victims' Rights Program. As a result of the audits and findings from the allegations, positive changes were made around the state in regards to policy development and individualized training to ensure victims' rights are more consistently provided. Funds from the VRP totaling \$3,227,800 were awarded to support 58 criminal justice agencies in the provision of mandated victims' rights. To assist agencies with implementing and providing victims' rights, the Victims' Rights Training program provided 85 victims' rights trainings to over 1,700 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 AGO employees and interns in both the Criminal Division, Criminal Appeals Section and Capital Litigation Section, while also providing refresher training to all criminal attorneys on various issues for a total of 85 individuals trained.



AG Brnovich, OVS Staff, Division Chief Paul Ahler

2017 Distinguished Service Awards

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



*Chandler Police Department Victim Services Unit
2017 Distinguished Service Award – Advocacy/Direct Services*



*Nepmi Elizalde, Patient Advocate
2017 Distinguished Service Award – Advocacy/Direct Services*



*Randall Udelman, Founder/Principal
2017 Distinguished Service Award – Leadership*



*Arizona Department of Corrections, Office of Victim Services
2017 Distinguished Service Award – Service Coordination*



*El Mirage Police Department Victim Assistance Unit
2017 Distinguished Service Award – Innovative Practices*

Major Cases

Victim Advocates worked closely with the prosecutors and victims in the successful prosecution of cases outlined previously by other Sections in this report along with the following cases.

State v. Raquel Selland - Raquel Selland was a State employee who worked for the Arizona Department of Administration (ADOA) and was responsible for establishing plans for assisting retired State workers out of arrears for premiums paid. The victim, a former State employee who was in arrears, was contacted by Selland to establish a plan for obtaining up-to-date payments. The victim thought she was paying and following the plan, but Selland was diverting the payments for her own personal gain. Selland was charged with Fraud Schemes, Theft and Forgery. The victim has since passed away and her sister, who lives in Kansas, is the lawful representative. The advocate learned, through conversations with the victim's sister that she was coming out to Arizona to conduct some business regarding the victim's death unrelated to the case. Since she would be in Arizona, the advocate facilitated a meeting with the prosecutor and advocate.

In further conversations before the sister's trip to Arizona, the advocate discovered that there were unresolved restitution issues with ADOA. The advocate arranged a telephonic conference with ADOA, victim's sisters and the prosecutor while they were in Arizona. The ADOA case worker and general counsel were brought in via telephone as soon as the meeting concluded. ADOA was able to provide some clarification as to its accounting of the claim and ADOA will follow up with some additional documentation. The advocate had an extensive conversation regarding the family's right to an impact statement and various options that were available for submitting statements, such as in-person, writing letters/statements and submitting statements for the prosecutor or advocate to read in court on the day of sentencing. The victim's sisters were extremely appreciative for the assistance.

State v. Jason Scott - Jason Scott was charged with multiple counts of Continuous Sexual Abuse, Sexual Conduct with a Minor and Molestation of a Child. Scott met two brothers while working at a neighborhood grocery store and lured them to his apartment where he forced the children to perform sexual acts on him. The abuse started when the boys were five and eight years old and continued for ten years. The advocate attended a Settlement Conference with the two victims and their stepfather. Due to an emergency surgery, the victims' mother was unable to attend the hearing. Before the hearing, the advocate talked to the mother on the phone while she was in the hospital and obtained her point of view on the plea that was offered to Scott as well as answered many questions regarding the terms. At the Settlement Conference, the advocate provided extensive emotional support to the victims. The advocate had established a rapport with the victims and was able to answer their questions and deal with sensitive issues. Unexpectedly, the judge decided to hold the Settlement Conference in chambers, which meant all parties were seated around an oval conference table in a small room. This put the victims in close quarters with Scott. Although there was little time to adjust to this change, the advocate prepared the victims and arranged the seating so that the prosecutor, the correctional officer and the advocate were between the victims and the defendant with the judge in their direct line of view. The advocate informed the victims of their right to be heard and one of the victims spoke at the hearing. The victims were pleased when Scott accepted the plea. The advocate also continued to have contact with one of the victim's employer to advocate for his release from work to attend hearings.

Special Investigations Section

The Special Investigations Section (SIS) provides investigative support prosecutions and consumer protection services of the AGO, as well as to law enforcement agencies across the State of Arizona. SIS provides expertise in specialized areas of law covered under the Attorney General's statutory criminal jurisdiction. This includes vulnerable adult abuse, consumer fraud, drug trafficking, environmental crimes, Medicaid fraud, money laundering, white collar crimes, political corruption, youth tobacco enforcement, antitrust, high technology crimes and foreign prosecution of defendants who have fled to Mexico. SIS works closely with our federal partners, to include having Special Agents assigned to several federal taskforces.

Overview of Accomplishments

In FY17, SIS opened 565 cases. Special Agents supporting WCOC, FRS, FSP, HCFA along with the AGO Consumer Fraud 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 Inquires 980
- Duty Agent Contacts 1800

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)

Special Agents assigned to the AFCTF and the Transaction Record Analysis Center (TRAC) are developing technology and workflow typologies to quickly and efficiently identify high priority human sex trafficking targets. AFCTF and TRAC are working with other non-profits and technology companies to integrate their databases and access to human sex trafficking intelligence that identifies social media, adult ad websites, money laundering trends and other information into TRAC. TRAC then analyzes this information in conjunction with a traditional and non-traditional financial analysis to put a complete profile together of these high priority human sex trafficking targets. This information assists AFCTF in conducting the necessary search warrants, subpoenas and other investigative tools to complete a successful criminal prosecution.



Operation TimBuk2 - In March 2016, Special Agents from the AFCTF initiated a long term investigation into money laundering and drug trafficking activities of an international organization supplying methamphetamine and heroin from Mexico into Phoenix. From Phoenix, the drugs were transported to Kentucky, Virginia, Alabama and Ohio; as well as distributed within Arizona. As a result of the investigation, AFCTF investigators conducted an electronic surveillance into the drug trafficking and money laundering activities of this transnational organization resulting in the 2017 arrest and convictions of 14 individuals, the seizure of over three hundred pounds of methamphetamine, over six pounds of heroin, \$96,000 in cash, ten vehicles and 2,000 rounds of ammunition destined for Mexico.



In addition, the AFCTF worked closely with the Transaction Record Analysis Center (TRAC). TRAC administers the distribution of money transmitter transaction data to law enforcement. 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 has produced numerous alerts and investigative leads to the Western Union Corporate Compliance, Financial Intelligence Unit (FIU) and designated law enforcement liaison personnel. TRAC criminal analysts from the Arizona Attorney General, DPS and the National Guard provide technical and analytical support to approximately 5,700 TRAC users in the United States from over 230 law enforcement agencies. Those requests for analytical assistance relate to trafficking in narcotics and synthetic drugs, human trafficking from Southeast Asia, Mexico and Eastern Europe, international arms trafficking, international fraud and terrorist financing activity. The TRAC Portal now contains subpoenaed transaction data involving specific geographic areas from fourteen money services businesses. During the one year reporting period, TRAC analysts conducted 60 anti-money laundering and TRAC training directly and via the Internet to 2,580 law enforcement agency analysts, detectives and agents in 11 states and three countries. TRAC analysts and investigators continue to assist national law enforcement initiatives concerning the opioid/fentanyl epidemic, international fraud schemes and the smuggling of Central American and Special Interest aliens from Central America into the US.



Consumer Fraud Unit

Economic Freedom Corporation - Special Agents assisted consumer attorneys in obtaining a \$6,000,000 judgment in restitution and civil penalties against a telemarketing enterprise that bilked millions of dollars from consumers nationwide. A judge found Chalonne Foerster, Blain Scribner and Vanessa Fitzgerald violated the Arizona Consumer Fraud Act and the Arizona Telephone Solicitation Statute. The court also found the three defendants along with Kyle Evans (Foerster's husband) and Patrick Passarelli (Fitzgerald's husband) were members of an unlawful enterprise that engaged in racketeering activities. The judgment concluded a consumer fraud lawsuit that named 13 defendants and nine corporations. Together, the defendants operated a fraudulent scheme using various names, including Economic Freedom Corporation, Franklin Financial Marketing, BES Enterprises, CGF Enterprises, F Marketing, Fast Website Marketing, Pro Marketing and Scribner Marketing. From 2009 until the State shut the businesses down in July 2012, the defendants sold websites to consumers, at a cost between \$250 and \$500. They claimed their customers would earn substantial commissions by selling credit card processing equipment and services from their websites. Consumers who purchased a website from one member of the fraudulent enterprise were then contacted by a second member. Using high-pressure sales tactics, defendants convinced consumers to spend thousands of dollars on "advertising packages". Defendants claimed buying the advertising packages would allow consumers to recoup their investment within a month or two. Consumers who purchased defendants' websites and advertising packages quickly learned that the program was a fraud. All defendants are banned from engaging in future telemarketing and sale of business opportunities. The State previously obtained judgments or entered into settlements with the other defendants named in the lawsuit.

Diamond Resorts Corporation - Special Agents assisted consumer attorneys in obtaining a settlement agreement with Diamond Resorts Corporation, a timeshare sales company with resorts located in the US and internationally. The assurance of discontinuance requires Diamond to pay the State a total of \$800,000, of which \$650,000 will be used for consumer restitution and \$150,000 for the State's attorney's fees and costs. The assurance also included a relinquishment program, which requires Diamond to allow qualifying consumers, who no longer want their timeshares, to return them to Diamond with no further obligations. In hundreds of consumer complaints, consumers complained that Diamond used deceptive sales practices and made numerous oral misrepresentations and false statements during timeshare sales presentations. Under the settlement, Diamond agreed to make a number of changes to its business practices that will benefit consumers, including requirements to make specific disclosures during timeshare sales presentations.

Larmore Auto Glass, LLC - Special Agents assisted consumer attorneys in obtaining a consent judgment against an auto glass company essentially banning the company from making telemarketing calls for six years as part of a settlement in an Arizona Consumer Fraud Lawsuit. The lawsuit alleged Arizona consumers received unwanted and unlawful sales calls that marketed windshield replacement services from 2013 through 2015. Under the settlement, Larmore Auto Glass admitted to placing illegal telemarketing calls to Arizonans listed on the National Do Not Call Registry. Larmore Auto Glass agreed to pay the State \$50,000 in civil penalties. According to the settlement, if Larmore Auto Glass violates the agreement, they will become liable for another \$50,000 in addition to the penalties provided in the Arizona Consumer Fraud Act.

Para Health Professionals, Inc - Special Agents assisted consumer attorneys in obtaining a consent judgment against Para Health Professionals, Inc. and Examination Preparation Institute, Inc. for issuing unaccredited degrees

and medical certifications. Students took seminars to become certified as Phlebotomists, Electrocardiogram Technicians, Medical Technicians, Behavioral Health Technicians, Healthcare Technicians or Pharmacy Technicians. Pamela Rae Davis and Ernest C. Esteban, who own and operated both Para Health Professionals and Examination Preparation Institute admitted they falsely told students they could provide valid medical certifications that were equivalent to state-licensed certifications. Students paid between \$99 to \$800 per seminar and from \$100 to several thousand dollars to obtain “valid educational credentials” such as a bachelor’s degree or Ph.D. Students later discovered that credentials came from an unaccredited establishment purporting to be in the British West Indies. The judgment requires Davis and Esteban to pay \$40,000 in consumer restitution and up to \$20,000 in additional restitution to resolve consumer complaints. The judgment also permanently stops Davis and Esteban from operating any business that provides education credentials and from making representations that any certification they provide is the equivalent of a state-licensed certification.

Youth Tobacco Compliance Program - In FY17, the program performed 2164 undercover inspections of tobacco retailers, resulting in 601 criminal citations issued to clerks and businesses who sold tobacco products to youth volunteers. The inspection failure rate improved from 13.3% in FY16 down to 11.6% in FY17. In addition, 91 Youth Volunteers participated statewide in the successful operation of the program.

Financial Remedies Unit

Special Agents assigned to the FRU completed over 982 follow up assignments at the request of AGO prosecutors to support civil forfeiture cases under litigation.

For the past 12 months, Special Agents assigned to HIDTA have successfully executed six funnel account warrants seizing a total \$259,905. The seizure involved a total of 160 bank accounts where money for drug trafficking organizations were being laundered.

Healthcare Fraud & Abuse Unit (HCFA)

Arizona’s contribution to the 2017 National Health Care Fraud Takedown involved nine Arizona defendants. Special Agents arrested Phoenix resident Lasania Oda for her part in a Minnesota based \$7.7 million dollar fraud allegedly committed by her and her family against the Minnesota Medicaid Program. Oda had been interviewed by Special Agents in January about her involvement in the alleged frauds committed through a series of personal care service agencies they owned and operated. Arizona coordinated with four other states in arresting the seven members of the family alleged to be involved in the fraud. Oda is presently at the Maricopa County Jail awaiting the outcome of court action which seeks to have her returned to Minnesota to face a series of criminal charges.

Major Fraud I

Tania K. Mafuta - In June 2016, Megan Stullick submitted a complaint to the AGO alleging financial exploitation being committed against her mother Paula Lynn Brott. Furthermore, Stullick alleged her signature was forged on documents which facilitated and furthered the commission of the financial exploitation. Stullick identified Tania K. Mafuta. In July 2016, Mafuta was arrested and charged with Fraudulent Schemes and Artifices, Theft

and Money Laundering. Mafuta pled guilty to Fraud Schemes and Artifices and Theft and was sentenced to one year in prison followed by five years' probation. She was also ordered to pay restitution in the sum of \$165,112.

Blodgett Brothers, et al - AGO Special Agents arrested Aaron and Matthew Blodgett for their involvement in a Craigslist employment and credit improvement scam. The defendants posted "help wanted ads" on Craigslist for clerical and administrative jobs. Those who responded to the ads were interviewed and told they needed better credit to get the job. Some victims were told they needed better credit scores because all employees were considered investors in the company. The Blodgetts encouraged the victims to obtain loans from various banks and turn the money over to them. According to investigators, the Blodgetts told the victims they would repay the loans and failed to do so. The loans soon went into default and the victims' credit scores deteriorated. Approximately \$187,776 was stolen from 18 victims. Most of the victims were in their twenties and looking for part-time work while going to school. In March 2017, Aaron and Matthew Blodgett pled guilty to Fraudulent Schemes & Artifices, Theft and Securities Fraud and were sentenced to four months in jail, following seven years of probation. They were also ordered to pay restitution in the sum of \$187,776. Co-defendants Zoran Vuckovic and Damir Karadascevic both pled guilty to Attempted Sale of Unregistered Securities and both received three years' probation.

Lynn My Truong - In October 2016, Lynn Truong was arrested for neglect of a vulnerable adult and endangerment. The investigation revealed Truong was the niece and defacto guardian for her 72 year-old uncle, Sung Van, who allegedly suffered from early onset dementia. Van did not speak English and was unable to take care of himself. Truong left Van alone on multiple occasions in an apartment she was leasing for long periods of time and neglected to provide him with reasonable and adequate care or food. Van was found by AGO Special Agent lying on the ground incoherent in the apartment soiled in urine and without food and needed to be immediately transported to the hospital for further medical attention and care. Truong was convicted of Vulnerable Adult Abuse and sentenced to six months jail and 18 months' probation.

Edgar Verdugo - In a case investigated by Special Agents, Edgar Omar Verdugo was convicted of Money Laundering and Conspiracy charges for his role in a Mexican based organized crime group, headed by Salvador Anzo. Previously, in 2014, Special Agents coordinated the arrest of another member of this group, Bernabe Godina Jara, at the Mexico border in California. Jara was subsequently convicted on Money Laundering and Fraudulent Schemes charges in 2015 for his role in the organized crime group. The Mexican based organized crime group is believed to have defrauded dozens of victims, who are landowners, title companies and buyers out of millions of dollars over the past five years. Their frauds appear to have spanned over many states, including Arizona, California, Nevada, Texas and Florida. Undercover operations and electronic surveillance conducted jointly with federal and California state law enforcement partners, combined with search warrants obtained also revealed evidence against other group members and intercepted and thwarted some other active ongoing land frauds in California and Arizona. One of the active frauds intercepted, involved the attempted illegal sale of Arizona Diamondbacks' front office staff member Toni La Russa's property in Scottsdale.

Dominique Flanigan - Between September 2012 and October 2016, Dominique Flanigan engaged in a course of conduct that terrorized and caused the victim who has a child in common with Flanigan to fear for her life and physical health, as well as the life and physical health of their six year-old son. Despite multiple protective orders Flanigan used social media and online sources and blogs to post violent and harassing posts directly and indirectly to the victim. Flanigan also followed the victim from Florida to North Dakota and to Arizona. Flanigan

also repeatedly contacted and harassed the victim's family members. Flanigan expressed sympathy and common beliefs with Muslim extremist groups, as well as anti-law enforcement groups on online rants and postings. Special Agents became involved in this case at the request of the FBI Joint Terrorism Task Force (JTTF) who had concerns about the overall violence potential of Flanigan. Special Agents conducted an investigation which ultimately resulted in the Flanigan's arrest. In March 2017, he pled guilty to Aggravated Domestic Violence and Attempted Stalking. He was sentenced to two years in prison followed by three years of probation.

Tucson:

State v. Edith and James Hughes - Edith Hughes worked as a caregiver for the 86 year-old vulnerable adult victim. Within three months of meeting the victim, Edith and her husband James took control over the victim's entire life intending to defraud the victim of her money. The defendants isolated the victim from neighbors, lied about her whereabouts, secreted her to housing on a restricted air force base, assumed control of her finances, became 80% beneficiaries of her estate and had almost completed the sale on the victim's house when law enforcement intervened. After their convictions at trial, Edith was sentenced to five years in prison and James was sentenced to 7.5 years in prison for charges related to financial exploitation. They were ordered to pay \$20,291 in restitution to the victim.



Director Dawn Northup

MISSION:

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

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 sections handle a wide variety of legal matters and provide client advice, legal representation and litigate in administrative, civil and appellate proceedings.

Agency Counsel Section

The Agency Counsel Section (ACS) is responsible for providing legal advice and litigation support to approximately 100 state agencies, boards, commissions, & courts. ACS clients range from the Department of Administration, the Department of Corrections and the Courts, to the State Board of Equalization, Department of Housing, and Department of Revenue. In 2017, ACS added new attorneys and staff and is now also responsible for representing the Departments of Financial Institutions, Game & Fish, Insurance and Real Estate. Also this past year, the Tobacco Enforcement Unit joined ACS.

Overview of Accomplishments

Proposition 206-Minimum Wage Litigation - 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.

Retirement System Cases - In 2017, ACS continued to represent the State of Arizona in litigation challenging the constitutionality of the Legislature's efforts to make the Elected Officials Retirement Plan and the Public Safety Personnel Retirement Plan actuarially sound. ACS also defended actions brought against the Arizona State Retirement System challenging the definition of compensation and whether members can make certain purchases of prior public service after limitations were made on those purchases by the Legislature.

In the Matter of Focus Receivables Management, LLC - The Arizona Department of Financial Institutions (“DFI”) conducted an examination of Focus Receivables Management, LLC (“Focus”), a licensed collection agency. DFI issued a Cease and Desist Order. To settle the matter prior to a formal hearing, Focus submitted up-to-date financial statements to reflect a more current picture of its financial condition, agreed to enter into a Consent Order, pay a civil money penalty of \$20,000, and initiate procedures to prevent reoccurrence of the issues found in DFI’s examination report.

In the Matter of the Collection Agency License of NCO Financial Systems, Inc. n/k/a EGS Financial Care, Inc. - In March 2016, the Department of Financial Institutions issued a Cease and Desist Order against NCO for its collections practices including: (1) harassing debtors; (2) failing to provide information to debtors within required timeframes; (3) failing to investigate claims that debtors were misidentified; (4) contacting debtors’ relatives, friends, and neighbors; (5) continuing to contact debtors after receiving written notice to not contact them; (6) failing to provide documentation to debtors verifying the alleged debts against them; (7) failing to deal openly, fairly, and honestly with debtors; (8) misleading or using illegal means to collect debts against debtors; and (9) failing to represent itself as a collection agency. NCO entered into a Consent Order with DFI that required NCO to admit to certain violations of Arizona’s collection practice statutes, correct those collection practices and pay a \$100,000 civil money penalty.

Center for Biological Diversity v. Jewell/WildEarth Guardians v. Ashe - On January 12, 2015, the U.S. Fish & Wildlife Service (FWS) finalized its revised regulation for the reintroduction of the endangered Mexican Wolf. The new regulation included several controversial provisions that the Arizona Game & Fish Department supported. These changes included (1) the addition of a target population objective for Mexican wolves in AZ & NM of 300-325; (2) phased approach to the westward release of Mexican wolves to restrict wolf dispersal in areas in western AZ that are not considered a suitable habitat, and (3) allowing wolf removal when the impact wolves have on wild ungulate herds causes a 15% decline in the wild ungulate population.

The Center for Biological Diversity (“CBD”) and WildEarth Guardians (“WEG”) filed suit against the FWS alleging the revised regulation violates the Endangered Species Act and the National Environmental Policy Act. In May 2015, the court granted Arizona’s motion to intervene.

The parties filed cross motions for summary judgment and are awaiting a decision by the court.

In the Matter of Keith Perry Stone - ACS represented the Department of Insurance in a license revocation proceeding against licensee Keith Stone for providing false information on an insurance application and forging another agent’s signature on the application.

Significant Responsibilities

Procurement Protests - ACS successfully assisted our client agencies in preparing procurement officer decisions in major protests that were effective in ending the protests without further proceedings. As part of that process, ACS worked with the State Procurement Office to develop a template for procurement officers to help assist them in preparing their decisions. ACS also provided training for procurement officers to give them hands-on experience dealing with the issues commonly raised in a protest and to provide them with tools to draft more effective decisions.

Bankruptcy Matters - ACS assisted the Consumer Protection & Advocacy Section (CPA) in two separate bankruptcy cases, *In re Rinehart* and *In re Rousselow*. In both cases, the state court consumer fraud actions against the debtors had not been initiated before the bankruptcy cases were filed. ACS successfully obtained orders from the bankruptcy court affirming that the automatic stay did not bar the filing of such actions. Also, in one of the cases, an adversary complaint was filed to determine the non-dischargeability of the restitution and civil penalties, which is still pending. In the other case, ACS successfully obtained an order from the bankruptcy court that extended the deadline for the filing of a non-dischargeability complaint, even though the original deadline had already expired.

Additionally, ACS continues to represent Arizona in a multi-state fraudulent conveyance litigation involving 23 states.

Bonds and Leases - ACS attorneys reviewed 18 projects for Industrial Development Bonds funding, totaling \$948,975,000.00. The review is for the purpose of determining whether each project meets the statutory requirements and the statutory definition of a project.

ACS attorneys reviewed and approved, as to authority and form, personal property leases with an aggregate value of more than \$13,386,135.90.

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 2017, Arizona received approximately \$100 million in total MSA payments. Since 1998, tobacco manufacturers have paid approximately \$1.9 billion to the State. Under state law, MSA funds are dedicated to the Arizona Health Care Cost Containment System (“AHCCCS”) for health care.

Youth Tobacco Program - TEU continued to successfully operate the Youth Tobacco Program in fiscal year 2017. 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 2017, the program performed 2164 undercover inspections of tobacco retailers, resulting in 601 criminal citations issued to clerks and businesses who sold tobacco products to youth volunteers. TEU works closely with County Attorney’s Offices, Justice Courts, and health departments to implement and maintain the Arizona Retail Tobacco Training class and diversion program. In 2017, the Program achieved its lowest fail rate ever – only 11.6% of businesses failed inspections, down from 13.3% in 2016 and 17.3% in previous 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 2017 TEU continued to pioneer a new enforcement process. 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 companies from selling tobacco anywhere in the country. TEU has nominated 54 websites that sold and shipped into Arizona to the ATF non-compliant list, more than any other state combined. TEU provided notice to webhosting companies of violating websites,

which resulted in a number of websites being taken offline. TEU also persuaded Western Union to implement a strict policy prohibiting money transfers for cigarette delivery sales. 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.

Education and 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 Divisions of Operations, the Public Health Divisions of Licensing, Prevention, and Preparedness, and the Arizona State Hospital. 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.

Health Unit Major Case Highlights

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. In 2016, the legislature passed a bill (SB1112) that repealed these requirements. As a result, the lawsuit was dismissed.

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 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. The court ruled, however, that the Legislature's open-ended reliance on the FDA protocol was unconstitutional and struck down the relevant laws. SB1112 was subsequently passed and that bill eliminated the medication abortion requirements that Plaintiffs were challenging.

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”) for being 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. 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.

Best of Europe Adult Home Care, LLC v. Arizona Department of Health Services - In 2013, the Best of Europe Adult Home Care, LLC (Facility), an assisted living home licensed by ADHS, was investigated following the death of a resident. No action was taken against the Facility’s license, but a Statement of Deficiencies (SOD) was issued to the Facility noting rule violations and requesting the Facility take corrective action related to the rule violations. In January 2015, the Facility sought appellate review of the SOD under the Administrative Review Act. EHS attorneys successfully moved to dismiss the appeal for lack of jurisdiction. The Facility sought review by the Arizona Court of Appeals. The Court of Appeals affirmed the dismissal in its Decision on January 12, 2017. The Facility petitioned the Arizona Supreme Court for review on March 13, 2017, and the Arizona Supreme Court recently denied review.

Sexually Violent Person (SVP) Cases

Randy Layton, Court of Appeals, Div. 1; No.1 CA-MH 16-0005 SP; Mohave County Superior Court No. CV-2010-00859- Mr. Layton petitioned the State 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 (Mohave County Attorney) 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. Health Unit attorneys intervened on behalf of ADHS 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.

Mental Health Cases

Medical Marijuana Cases on Appeal

Yolanda D., et al. v. Arizona Department of Health Services, et al. - Plaintiffs filed this case in the Maricopa County Superior Court as a class action and sought mandamus and declaratory judgment relief. Plaintiffs asserted that (1) ADHS exceeded its statutory authority when it set the registration fees for qualifying patients at \$150 or \$75 for SNAP participants and \$200 for designated caregivers; and (2) that these registration fees are unconstitutionally excessive because the Medical Marijuana Fund has a surplus. Health Unit attorneys moved to dismiss the case; the Superior Court dismissed this case for lack of subject matter jurisdiction and a failure to state a claim. Plaintiffs have appealed.

Mental Health Cases

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 illegal aliens, 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 illegal aliens. 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.

Significant Matters

Emergency Medical Services and Trauma Systems Program - Any person or entity that wants to operate an ambulance service must be granted a Certificate of Necessity (C.O.N.). The Health Unit represented ADHS with respect to eleven (11) Ambulance CON applications during FY17; four (4) resulted in administrative hearings, including one that is an ongoing, multi-week evidentiary hearing. The Health Unit also represented the Program in one administrative enforcement action to revoke the license of an Emergency Medical Technician 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 represents the Women, Infants, and Children (WIC) Program in various licensing matters. During this fiscal year, 29 matters were set for hearing; those resulted in multiple 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 - EHS Health attorneys represented ADHS in five (5) health care licensing matters involving the revocation of assisted living facilities who were posing a risk to the health and safety of their residents. In addition, Health attorneys represented ADHS in two complicated enforcement matters against large health care institutions. Health attorneys also represented ADHS in multiple informal settlement conferences, and provided weekly advice in matters involving long term care, outpatient treatment centers, urgent care facilities, and behavioral health facilities.

Health Care Licensing—Special Licensing (Midwives) - In addition to providing general legal advice, the Health Unit is currently representing ADHS in four (4) enforcement actions against licensed midwives that are pending on appeal at the Arizona Court of Appeals. All of those ADHS enforcement actions were successfully upheld in the Superior Court.

Sexually Violent Persons - EHS Health attorneys provide general legal advice to the Arizona Community Protection

and Treatment Center's (ACPTC) which is responsible for managing the 112 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 112 committed individuals in various Superior Courts throughout Arizona.

Medical Marijuana Program - The Health Unit provides 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.

The Health Unit has defended ADHS in six Superior Court lawsuits alleging that ADHS improperly allocated dispensary registration certificates during its October 2016 allocation process. Four are currently active, one will imminently be dismissed in favor of ADHS, and two have been dismissed in favor of ADHS. In each of the lawsuits, the plaintiff was a dispensary applicant that did not receive a dispensary certificate and alleged ADHS acted in an "arbitrary and capricious" manner in the dispensary allocation process.

Office of Vital Records (OVR) - In addition to providing legal advice to the OVR on a weekly basis, the Health Unit represented the OVR in sixteen (16) separate administrative matters and represented ADHS in three (3) Superior Court matters involving gender-based or same-sex issues.

Public Health Emergency Preparedness - In addition to providing general legal advice, a Health Unit attorney participated in the ASTHO/NAGTRI summit on the opioid epidemic and presented on "Public Health Law for Declared Emergencies" to a class at Midwestern University.

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 138 mental health hearings before the Superior Court and 107 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 to ADHS regarding the Procurement Code, RFIs, RFPs, IGAs, ISAs and MOUs. In addition, Health Unit attorneys reviewed and/or approved 251 contracts submitted by 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 2017 was \$473,855.

Education Unit

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 they meet Arizona's residency requirements). The United State 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 MCCCD 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 MCCCD to intervene.

In May of 2015, the Superior Court ruled on dispositive motions filed by all parties, concluding that DACA recipients could be eligible for in-state tuition. Arizona appealed that decision. On June 20, 2017, the Court of Appeals reversed and remanded the Superior Court decision, agreeing with the State that DACA students are not eligible for in-state tuition. MCCCD and the Student-Intervenors have recently filed a Petition for Review with the Arizona Supreme Court.

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. The State filed an appeal of that decision; subsequently, the parties entered into settlement discussions. 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 appeal was dismissed on February 9, 2017.

Legacy Education Group, et al. v. 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." Following the filing of dispositive motions, the Superior Court granted the Board's Motion to Dismiss on the basis of the Court's finding

that the APA did not apply to the frameworks. The schools appealed and the case is pending in the Court of Appeals.

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 went to trial in late June and mid-July, 2017. On August 22, 2017, the Federal District Court issued a Memorandum Decision finding that the Board violated the constitutional rights of the Plaintiffs in the enactment and the enforcement of A.R.S. §§15-111, 15-112. However, the Court did not issue a Final Judgment pending further proceedings.

In the Administrative Matter of Founding Fathers Academies, Inc. - Education attorneys defended the Charter Board's decision to revoke the charter of Founding Fathers Academies, Inc. There has been an administrative hearing, and a judicial review action and an appeal to the Arizona Court of Appeals. Following oral argument, the Court of Appeals affirmed the Board's decision.

John Doe, et al. v. Heritage Academy, Inc., AZ State Board for Charter Schools - Americans United for the Separation of Church and State, representing two plaintiffs, brought a 42 U.S.C. § 1983 action against the Superintendent of Public Instruction and the Executive Director and individual members of the Arizona State Board for Charter Schools ("Charter Board"), as well as three Arizona charter schools sponsored by the Charter Board, in Federal District Court. The action alleges that the curriculum at the charter schools included religious instruction violating the Establishment Clause of the First Amendment of the U.S. Constitution and articles of the Arizona Constitution. The action further alleges that the Superintendent and the Executive Director and members of the Charter Board failed to exercise their oversight authority to ensure that the three Arizona charter schools complied with the constitutional requirement that public education be nonreligious. The action also alleges that the Superintendent of Public Instruction disbursed or caused to be disbursed public funds to the charter schools, with the result that public tax dollars were directly funding religious instruction and the purchase of religious instructional materials. The District Court ruled that plaintiffs lacked taxpayer standing because the allegations failed to show that plaintiffs have or will suffer a direct taxpayer injury, or that the case falls within the narrow exception provided by *Flast v. Cohen*, 392 U.S. 83 (1968). The District Court also directed plaintiffs to amend the complaint to comply with the Court's findings and to add the true first and last initials in place of the pseudonym John Doe. Plaintiffs filed a Motion for Reconsideration on multiple grounds, which was subsequently denied. Plaintiffs then filed a Notice alleging that Doe, concerned about retaliation to his child(ren) upon release of

his identity, declined to file an amended complaint. Plaintiff Doe then filed an Interlocutory Appeal to the 9th Circuit.

Significant Matters

Arizona Department of Education (ADE) - Education Unit attorneys provide day-to-day advice to ADE 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. Education attorneys 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 that process continues despite USDOE's closure on August 15, 2017 of its complaint regarding the Kindergarten Placement Test (KRT).

Additionally, Education Unit attorneys assisted ADE in addressing FERPA and student record confidentiality issues and with the administration of the Empowerment Scholarship program. We also 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 assisted ADE in reaching settlement agreements in four contested audits, which resulted in ADE collecting \$385,424.73 in overpayments.

Arizona State Board of Education (Board) - In addition to providing regular legal advice to Board staff, Education attorneys reviewed and revised Board meeting agendas for compliance with the Open Meeting Law and attended all Board meetings to advise the Board.

Professional Practices Advisory Committee (PPAC) - Education Unit attorneys represented the State in connection with 77 disciplinary matters, alleging teachers or administrators engaged in professional misconduct. Education Unit attorneys conducted 22 administrative hearings before the PPAC, drafted 23 settlement agreements, and worked out details in obtaining surrenders of several teacher certificates. Our Education Unit attorneys also provide regular legal advice to Board Staff and the Investigative Unit staff for the Board, and regularly attend Board of Education meetings regarding discipline matters for certificate holders.

Arizona State Schools for the Deaf and Blind (ASDB) - Education Unit attorneys provided client advice to ASDB staff on various subjects including AZELLA, AZMerit, the payout of Sick Leave to departing employees, and a U.S. Office of Civil Rights (OCR) complaint. Education Unit attorneys also review and edit ASDB contracts, as well as provide assistance on subpoenas, and public records requests.

Arizona State Board for Charter Schools (Charter Board) - Education Unit attorneys assisted the Charter Board in its revisions to its Complaint review process, 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 and the public records law. The Arizona Commission for Postsecondary Education is the trustee of the Arizona 529 College Savings Plan. Our attorneys provided advice on the authority of the Commission as Trustee, and assisted in drafting agreements with the financial institutions. Education attorneys reviewed and provided advice on the financial disclosure kit required for 529 college savings plans for Fidelity Funds and Waddell & Reed for compliance with Federal and State requirements. In addition, Education attorneys responded to the request from Price Waterhouse Coopers, LLC for the annual audit of Fidelity's Arizona College Savings Plan.

School Facilities Board (SFB) - In addition to providing day-to-day client advice to the SFB and staff and attend all Board meetings, Education Unit attorneys also advise the SFB on open meeting law issues, public records requests, and pending legal matters.

Employment Law Section

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, commissions, and courts on a wide variety of employment issues, at every stage of the employment relationship. ELS attorneys assist with minimizing liability to the State by providing proactive training for supervisors in state government, encouraging implementation of best practices and positive employee relations. ELS also counsels and defends client agencies 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), the State Personnel Board, and the Law Enforcement Merit System Council. ELS attorneys also represent the State in workers compensation matters that would otherwise be referred to outside counsel.

Significant Responsibilities

ELS Advice and Hearing Practice - ELS provided more than 3,119 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 litigation against the State 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 in partnership with 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 ranging from ADA and FMLA compliance to keeping the workplace free of discrimination and harassment and the Arizona Medical Marijuana Act. During the most recent fiscal year, ELS attorneys provided fourteen such presentations across the State.

Employment Litigation Practice

ELS attorneys provide legal advice to assist State agencies in avoiding liability by attempting to resolve problems early, creatively, and without the need for litigation. When the need for litigation arises, ELS attorneys provide subject matter expertise in all stages of litigation.

ELS represents the State in employment lawsuits covered by the State's self-insurance program, as well as in non-risk management cases. In FY16-17, ELS opened files for 24 new Risk Management lawsuits. ELS also monitored and assisted agencies in responding to 61 charges of discrimination filed with the federal Equal Employment Opportunity Commission (EEOC). ELS closed 25 EEOC charges. ELS attorneys and legal assistants billed more than 7,880 hours on Risk Management litigation matters (lawsuits, claims and EEOC charges).

Major Case Highlights

Harper, et al. v. State of Arizona - ELS successfully represented the State in an appeal by five former DES employees who asserted they were wrongfully terminated because they were allegedly dismissed for "political expediency." In a published Opinion, a unanimous panel of the Court of Appeals affirmed dismissal of plaintiffs' claims. First, the Court noted that Arizona's Employment Protection Act, A.R.S. § 23-1501 ("AEPA"), provides that employment relationships generally are severable at will, and sets out the limited circumstances in which an employee (either public or private) can bring a wrongful termination action in Arizona. The Court held that Plaintiffs' conspiracy theory of wrongful termination did not provide a basis for a wrongful termination claim under the AEPA.

Next, the Court declined Plaintiffs' request to create new law contrary to the AEPA and hold that public at-will employees cannot be terminated by a public official in order to (as Plaintiffs characterized it) provide "political cover" for a policy or decision that results in bad press. In rejecting Plaintiffs' novel theory, the Court noted that "no case in Arizona or any other state provid[es] such protection." *Harper v. State of Arizona*, 241 Ariz. 402, 405, 388 P.3d 552, 555 (App. 2016).

Scorzo, et al. v. Arizona Medical Board, Court of Appeals Division One - After first successfully briefing and arguing a Motion To Dismiss in the Superior Court, ELS successfully briefed and argued this statute of limitations case on appeal. Plaintiffs were two former employees of the Arizona Medical Board who were terminated in 2011. Plaintiffs claimed their dismissals violated the AEPA because they were dismissed shortly after questioning whether changes to medical licensing procedures violated Arizona law.

Despite the AEPA's one-year statute of limitations, the Plaintiffs did not file suit until 2014, nearly three years after their dismissal. Plaintiffs argued in the trial court and the Court of Appeals that they did not know they had a viable claim, and the statute of limitations did not begin to run, until after the Ombudsman issued a report in 2013 finding some of the licensing practices about which they had complained to be unlawful. The Court agreed with the State that the one-year statute of limitations on Plaintiffs' AEPA claims began to run when their employment was terminated because they had sufficient facts at that time to believe they had a claim for wrongful termination. The Court held that "[v]erification of the employer's wrongdoing is not required for accrual of a claim" under the AEPA. 2017 WL 371336, at *3 (Jan. 26, 2017).

Representation of State Agencies in Administrative Appeals - ELS opened 29 new administrative appeals brought by State employees in response to a termination or other disciplinary action, and devoted 1,679 hours to preparing for and litigating those hearings before the State Personnel Board, Law Enforcement Merit System Council (LEMSC), and other tribunals. Significant matters included the following:

Wade v. Department of Public Safety (DPS) - In May 2016, a DPS Trooper in the Department's Explosive Ordnance Disposal (EOD) section of the Special Operations Unit submitted an 18-page letter to the DPS Professional Standards Unit outlining several criticisms and concerns relating to operation and management of the bomb squad. The letter prompted DPS to conduct a Quality Assurance Audit (QAA) of EOD. While the QAA uncovered some areas that needed improvement, it revealed several greatly exaggerated statements in the 18-page letter. The separate misconduct investigation similarly revealed that the Trooper had not been compelled to lie despite his claim to the contrary. As a result of the investigative findings, the Trooper was dismissed for dishonesty and violating other standards of conduct. The Trooper filed two separate actions against the Department, the first with the Arizona State Personnel Board (Board) alleging whistleblower retaliation, and the second with the Law Enforcement Merit System Council arguing that there was no just cause for his dismissal. Following a five-day evidentiary hearing before the Personnel Board, and a three-day evidentiary hearing before LEMSC, the Department prevailed in both actions.

Lewis v. Arizona Department of Corrections (ADC) - ELS represented ADC in a case involving an appeal from the termination of a community corrections officer. ADC terminated the officer in 2014 based upon two charges: confrontations and threats toward a recently released offender and the officer's insubordination to his superiors. Following an evidentiary hearing, the Arizona State Personnel Board adopted the findings and conclusions of the hearing officer and concluded that ADC proved the insubordination charge but not the charge associated with confrontation toward the offender and therefore, ADC did not have just cause to terminate the officer. The ADC Director rejected the Board's recommendation as arbitrary and capricious and upheld the dismissal. On appeal, the Court of Appeals agreed with the ADC and held that the Department's order was legally sufficient and supported by substantial evidence to warrant dismissal. In a published decision, the Court held that "the Department is not obligated to apply the same deferential standard of review as this Court or the superior court when reviewing the recommendations of the appeals board or the hearing officer." *Lewis v. Arizona Department of Corrections*, 240 Ariz. 330, 335, 379 P.3d 227, 232 (App. 2016).

ELS Workers Compensation Practice

The ELS workers compensation group opened 64 new matters and closed 22 matters. ELS attorneys and legal assistants billed 4,169 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.

For example, in *Lewis v. Mendoza*, plaintiff alleged that two state worker's compensation adjusters and their supervisor, all Arizona Department of Administration employees, failed to properly administer plaintiff's worker's compensation claim by delaying recommended surgery, thus resulting in significant physical injury to the plaintiff. Plaintiff argued that the individual state defendants charged with administering her claim violated

her property interest in obtaining medical treatment under the Worker's Compensation Act. Plaintiff further contended that the 5th and 14th Amendments to the U.S. Constitution required the adjusters to administer plaintiff's claim in good faith, and they failed to do so. Plaintiff alleged violations of 42 U.S.C. §1983, arguing deprivation of her constitutional rights by the adjusters and their supervisor, who were acting under color of law. ELS attorneys filed a Motion To Dismiss on behalf of the State defendants, which the federal court granted.

Liability Management Section

The Liability Management Section (LMS) 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 Division of ADOA on matters related to liability claims.

Major Accomplishments

Tjauregui v. State of Arizona and Lange v. Martin and State of Arizona - LMS successfully disposed of two frivolous lawsuits against the Arizona Department of Transportation (ADOT) without significant expense to the State by arguing to the court that Plaintiffs should be required to provide a preliminary expert affidavit to demonstrate that their claims are viable. The Jauregui Plaintiffs argued there should have been a designated left-turn lane on highway 87 in Coolidge, and the Lange Plaintiffs argued the State should have prevented or stopped a wrong way driver on I-17. Both cases involved a fatality. The State successfully argued that engineering expertise was needed to prove liability, and that A.R.S. § 12-2602 required Plaintiffs to submit a preliminary expert affidavit demonstrating the viability of their cases. When Plaintiffs were unable or unwilling to do so, the cases were dismissed.

Gamez v. Ryan, et al. - An Arizona inmate claimed that ADC officers used excessive force on him while escorting him back to his cell. He alleged that he had pain, swelling, bruising, contusions, difficulty breathing and post-traumatic shock syndrome. His pretrial demand was \$2,000,000. After a three-day jury trial, the jury returned a defense verdict awarding him nothing.

Valenzuela v. Ryan, et al. - Melinda Valenzuela is an Arizona male inmate who claims he is transgender. He has been declared a vexatious litigant in numerous Arizona Superior Courts and Arizona's Federal District Court. He also has a history of making false sexual assault allegations and in this case alleged that he was sexually assaulted by an ADC officer in a hospital bathroom. After a three-day jury trial, the jury returned a defense verdict awarding him nothing. The judge awarded the State approximately \$300,000 in attorney's fees because of the inmate's frivolous lawsuit.

Bonelli v. Mulla, et al. - Plaintiff Isaac Bonelli, pro se, sued treating medical doctors and members of the Arizona Psychiatric Safety Review Board (PSRB) in District Court pursuant to 42 U.S.C. § 1983 claiming constitutional violations under the 4th, 5th, and 14th Amendments for his alleged unlawful detention by the Arizona State Hospital (ASH) based on his belief that the State could not hold him prisoner under his guilty except insane plea agreement because his treating doctors agreed that he was not suffering from a serious mental illness at the

time of his confinement at ASH. The trial court granted summary judgment on the State Defendants motion for summary judgment holding that Bonelli's complaint was time barred. The case is pending appeal in the 9th Circuit Court of Appeals.

Bonelli v. O'Connell, et al. - Plaintiff Isaac Bonelli, pro se, sued members of the PSRB for alleged fraud and misrepresentation in the course and scope of their employment with the PSRB. Bonelli claimed that the PSRB members withheld material information from him in the course of his appearances before the Board and as a result he was unable to take advantage of services otherwise available to him. The trial court granted the State Defendants' motion to dismiss holding that the claims were barred by the statute of limitations. The case is on appeal to the Arizona Court of Appeals.

Ahlers v. Arizona Board of Regents (ABOR) - LMS attorneys represented ABOR in a case filed by a University of Arizona (UA) student who suffered serious fractures of the left forearm when he fell from the retaining wall at Arizona Stadium during a rush onto the football field by fans following UA's victory over the Oregon Ducks on November 23, 2013. ABOR presented evidence that Plaintiff was at fault for his own injury, including the testimony of his friends that he went over the wall to rush the field of his own volition. The jury's verdict assigned 90% fault to Plaintiff and 10% to ABOR, for a net award to Plaintiff of \$30,000.

Morgal v. Williams - Morgal's 42 U.S.C. § 1983 claims alleged that ADC Sgt. Edward Williams used excessive force against him after ordering him to submit to handcuffs for being disruptive during a disciplinary hearing in Williams' office at the Tucson prison complex in 2011, and that Williams then retaliated against him for exercising his First Amendment rights by filing a grievance. After a four-day jury trial in Federal District Court, the jury deliberated for about an hour before returning a defense verdict.

Significant Appellate Decisions

During the last fiscal year, the Appellate Courts issued decisions (memorandum decisions, opinions, and orders) in approximately 57 LMS appeals. There were orders dismissing appeals in 24 cases (including 3 orders declining jurisdiction over special actions). There were memorandum decisions in 26 cases and published opinions in 8 cases.

McKee v. State, 241 Ariz. 377 (App. 2016), review denied (May 15, 2017) - This case, like Acri, see below, arose from the Yarnell Hill Fire. Grant McKee was one of the Granite Mountain Hotshot Interagency Hotshot Crew who died in the fire. The Hotshots, a division of the Prescott Fire Department, worked on the fire under an Interagency Agreement (IGA) with the State Forestry Division. His mother-his closest surviving family member-sued the State for wrongful death. The Court of Appeals affirmed the Superior Court's ruling that workers' compensation benefits was the exclusive remedy for McKee's on-the-job death because he was considered an employee of both the Prescott Fire Department and the State. The Supreme Court denied McKee's petition for review.

Acri v. State, 242 Ariz. 235 (App. 2017) - This case, like McKee, supra, arose from the Yarnell Hill fire. Numerous homeowners from the Town of Yarnell sued the State claiming that it had acted negligently both in how it fought the fire and giving a late evacuation warning. The Superior Court granted our motion to dismiss, holding that the State owed no duty to the Yarnell Hill residents and had not assumed a duty to protect them when it took over

the firefighting efforts. This ruling saves the State millions of dollars in potential liability.

The Plaintiffs have filed a petition for review, to which LMS has responded.

Hughes v. Kisela, 841 F.3d 1081 (9th Cir. 2016), opinion amended, petition for review en banc denied, 862 F.3d 775 (9th Cir. 2017)- A UA Police Department officer received a call about a woman hacking at a tree with a large kitchen knife. When responding to the scene, Sharon Chadwick was in the front yard of a home. Two other officers arrived. The following events transpired over less than a minute. Another woman, the Plaintiff Amy Hughes, emerged from the house carrying a large kitchen knife. All four officers drew their guns and ordered Hughes to drop the knife. She did not do so. She approached Chadwick, accused her of calling the police, and stealing money. Chadwick gave her money and tried to move away, but Hughes stayed with her. A chain-link fence with a locked gate separated the officers from the women. Corporal Kisela considered using his Taser on Hughes, but rejected the idea because the leads would tangle in the chain links. Fearing for Chadwick's life, he knelt down into shooting position and fired four shots at Kisela, who fell at Chadwick's feet, injured but alive.

Hughes sued Kisela asserting excessive force. The District Court ruled that Kisela had not violated her Fourth Amendment rights but instead had acted reasonably in the face of the perceived threat. Having ruled that no constitutional violation had occurred, the court did not reach the issue of qualified immunity.

A Ninth Circuit Court of Appeals panel reversed, holding both that Kisela had used excessive force and that qualified immunity did not protect him because it was clearly established that a person has a constitutional right to walk down the driveway of her own home while holding a kitchen knife. LMS moved for rehearing en banc because the opinion conflicts with *Blanford v. Sacramento County*, 406 F.3d 1190 (9th Cir. 2015), where the court had held no violation occurred when officers shot a man holding a sword as he entered the back yard of a home that, unbeknownst to the officers, was unoccupied. The Ninth Circuit denied the petition for rehearing, but seven judges joined an opinion dissenting from the refusal to rehear the case. LMS will be filing a petition for certiorari in the United States Supreme Court.

Wagner v. State, 242 Ariz. 95 (App. 2017) - This case is similar to McKee, supra, because the Court of Appeals affirmed the Superior Court's ruling that workers' compensation was the sole remedy for the plaintiff. The plaintiff has filed a petition for review in the Arizona Supreme Court.

Sanders v. Alger, 242 Ariz. 246 (2017) - The Division of Developmental Disabilities (DDD), a division of the DES, contracts with companies and individuals to provide in-home care to DDD's clients. The clients are vulnerable adults who have developmental disabilities and are eligible for Medicaid through the Arizona Health Care Cost Containment System (AHCCCS). Thomas Alger is a DDD client who has, among other afflictions, cerebral palsy, which puts him a risk for falls. Jeannette Sanders provided him home-care services through a contract with DDD. She was well aware of his danger for falling. Under the DDD program, contractors like Sanders are entitled to compensation for damages and personal injuries they might suffer while performing their duties.

One day, Alger fell, and Sanders was injured while trying to protect him. She sued him, alleging that he had negligently failed to follow the anti-falling protocol that she had created for him. Her actual intent in suing Alger-who is impecunious-was to get compensation for the State.

The Superior Court granted summary judgment to the State, holding that the firefighters' rule applies. Under it,

a professional rescuer—such as firefighters and police officers—are barred from suing for personal injuries suffered during on-the-job rescues. The Court of Appeals reversed in *Sanders v. Alger*, 240 Ariz. 90 (App. 2016), holding that Alger owed a tort duty to Sanders and refusing to apply the firefighters’ rule.

The Supreme Court granted LMS’ petition for review, but while it vacated the Court of Appeals’ opinion, it also reversed the summary judgment. It refused to extend the firefighters’ rule to home-care workers and rejected LMS’ argument that Sanders should have sued the State directly. It also held that Alger owed a duty to Sanders, but its opinion points out that the duty is tempered by Alger’s developmental disabilities—in essence, signaling that summary judgment might be appropriate on that point.

Licensing Enforcement Section

Attorneys from LES were successful in several cases resulting in opinions from the Court of Appeals.

Wassef v. Arizona State Board of Dental Examiners - This case involved a challenge to the ability of the Board to summarily suspend Dr. Wassef’s dental license. Dr. Wassef had a history of opioid addiction. A pharmacist contacted the Board with concerns about Wassef’s prescription writing practices, including prescriptions for increasing amount of hydrocodone, a drug Wassef had abused in the past. Concerned about a possible relapse, the Board ordered Wassef to obtain an inpatient substance abuse evaluation. Wassef refused to comply with the order and the Board summarily suspended his license.

On appeal, Wassef alleged violations of due process and attacked the sufficiency of the evidence. The Court rejected both arguments, holding that the Board was not required to provide a hearing before it entered its interim order of summary suspension so long as Wassef received a “prompt hearing” after the summary suspension. The court also found that based on the totality of the circumstances—his failure to comply with the order, his history of substance abuse, and irregular prescription-writing practices—the evidence was sufficient to sustain the suspension, even absent any complaints from his patients or co-workers.

Johnson v. Arizona Registrar of Contractors - This case involved an issue as to where a party appealing from a final administrative action must file a notice of appeal in order to initiate a judicial review action. Johnson sought to file a judicial review action after the Registrar had denied her application for a payout from the Registrar’s Recovery Fund. She initially filed a “notice of appeal” with the Registrar. Approximately two weeks later she filed the notice with the superior court, one day after the filing deadline for an action to review final administrative decision. The superior court held that her failure to timely file the superior court action deprived it of jurisdiction.

On appeal, Johnson argued that because the statutory scheme did not specifically state where the notice of appeal was to be filed, filing with the Registrar was adequate. She also argued that “close enough was good enough.” The Court rejected those arguments, pointing out that appeal rights are grounded on statutes or rules, and that the failure to timely file with superior court deprived it of jurisdiction.

Ramsey v. Arizona Registrar of Contractors - This case involved a dispute over the method for calculating “actual damages” under ARS §32-1132(A) in claims for payment from the Registrar’s Residential Contractors’ Recovery Fund. The Court upheld the Registrar’s position that the proper measure of damages is the cost of completion or

repair, less any unpaid portion of the original contract price. The Court ruled that applying this rule would provide the property owner with the benefit of her bargain while eliminating a potential windfall to the homeowner if the project could be completed for an amount less than the unpaid contract balance.

<i>Civil Assessments and Penalties</i> <i>(in dollars)</i>	
Accountancy Board	\$ 31,850.00
Acupuncture Board	\$ 500.00
Arizona Medical Board	\$ 2,600.00
Athletic Trainers	\$ 3,000.00
Barber Board	\$ 2,270.00
Board of Cosmetology	\$ 153,946.19
Chiropractic Board	\$ 1,250.00
Dental Board	\$ 21,273.00
Board of Technical Registration	\$ 110,400.00
Liquor Board	\$ 420,550.00
Medical Radiological Technical Board	\$ 1,087.50
Naturopathic Physicians Board	\$ 3,000.00
Nursing Board	\$ 14,025.00
Nursing Care Administrators	\$ 500.00
Occupational Therapy Board	\$ 655.00
Osteopathic Board	\$ 1,000.00
Pharmacy Board	\$ 150,000.00
Physical Therapy Board	\$ 18,000.00
Podiatry Board	\$ 8,000.00
Private Postsecondary Education	\$ 3,200.00
Registrar of Contractors	\$ 491,150.00
Respiratory Care Examiners	\$ 21,718.00
Veterinary Board	\$ 6,600.00
TOTAL	\$ 1,466,574.69

1. Includes restitution recoveries.
2. This figure does not include a \$1,277,500.00 civil penalty which is now the subject of an action in the Court of Appeals.

In addition, LES successfully defended over \$100,000.00 in claims made against the Registrar's Residential Contractors Recovery Fund.

Natural Resources Section

The Natural Resources Section (NRS) provides representation to a variety of State agencies, including the Arizona State Land Department (ASLD), the State Parks Board (“State Parks”), the Department of Forestry and Fire Management, the State Mine Inspector, the Prescott Historical Society and the State Board on Geographic and Historic Names. 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 provides advice and representation to the Arizona State Land Department in the Land Commissioner’s position as public trust advocate in proceedings before the Arizona Navigable Stream Adjudication Commission (“ANSAC”). NRS 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 development in the vicinity of high noise and accident potential zones of military airports or ancillary military facilities.

Significant Responsibilities

NRS attorneys successfully negotiated resolution of litigation to clear the State’s title when trust land was erroneously sold for taxes, defended the State against a challenge to the validity of a major right of way, continued to assist the Mine Inspector with drafting and updating rules; and continued its representation of the public trust advocate in the Verde River and the Salt River navigability stream adjudications. NRS attorneys also assisted the ASLD in generating approximately \$129 million in sale and long-term lease revenue during the fiscal year.

Water Rights Adjudications - 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. In addition to the Fort Huachuca, Redfield Canyon cases, the NRS motions to intervene in the San Pedro Riparian National Conservation Area contested case and in the Hopi Reservation HSR contested case, have been granted and NRS is actively participating in those cases.

Prior to suspension of the *In Re Sands* contested case due to legislative intervention, the NRS in conjunction with the client and another party, performed essential evaluation and application of a *de minimis* order to water rights claims in order to produce a test case presentation of water rights abstracts to be used in summary proceedings.

CWA 404 Permitting Work - The Paradise Ridge Army Corps of Engineers (Corps) Clean Water Act (CWA) Section 404 Permit (Permit) was renewed for 10 years on May 25, 2017. This 2,137.6 acre permitted area encompasses a stretch of land which is bordered approximately by Bell Road on the south and Pinnacle Peak Road on the north, and 64th Street on the West and Scottsdale Road on the East. The Permit was originally required because the Corps considered desert washes in the land area to be jurisdictional waters of the United States that are subject to CWA Section 404. As part of the permitting process, a land use plan was developed that provided for the dredging and filling of some washes as long as there is prescribed mitigation of that impact.

This Permit allows for development to continue while addressing required action under the permit. The ability to develop this land is paramount for any ASLD sales and leases.

Environmental Remediation - NRS represented ASLD to facilitate the environmental remediation of the Hillside Mine Superfund site on state trust land north of Bagdad. The tailings pile contributed to the impairment of Boulder Creek. NRS and the State Land Department worked with ADEQ, Risk Management, and various federal

and private entities to leverage over \$2 million in federal funding devoted to the remediation. NRS arranged the appropriate access agreements for remediation and monitoring, ensuring compliance with state law and support for the interests of the state land trust.

Major Case Highlights

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 NRS raised important issues and presented evidence in support of its position at trial. The amount of the federal claim will affect the availability of water for other uses.

In re Redfield Canyon Wilderness Area - The NRS represents the State in the *Redfield Canyon* contested case in the Gila. This contested case involves the quantification of the federal reserved right to water for a wilderness area. The NRS argued for and the court determined that the federal government was required to establish a numerical amount of water necessary for the reservation. The State successfully moved to exclude late-submitted evidence on that issue, resulting in a shortened trial schedule.

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.

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

Major Case Highlights

Saban v. ADOR - Car rental companies in Maricopa County 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. The Tax Section and AzSTA 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 2017.

AEPCO v. ADOR - AEPCO owns and operates the Apache Generating Station (“Apache”), an electrical power generation plant in Benson, Arizona. AEPCO buys coal and natural gas from out-of-state companies 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 over seven million dollars, claiming that its purchases were outside the scope of the use tax because the fuels were purchased not for AEPCO's use but rather for "resale" as 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 and the Court of Appeals agreed with the Department and held that AEPCO's purchases were subject to use tax. AEPCO has filed a petition for review with the Supreme Court. The victory thus far safeguards millions if not tens of millions of dollars in annual revenue to the State.

BSI Holdings, LLC v. ADOT - ADOT assesses license taxes against non-residents with planes in the state based upon the number of days that the plane is present in the state. The State uses those revenues to improve, maintain, and operate airports. BSI was assessed at the highest rate possible under A.R.S. § 28-8336 given that it was based in the state more than 209 days each calendar year. BSI disputed the assessment, arguing that the word "day" in § 28-8336 means an entire 24-hour period from midnight to midnight, and that unless the plane was in the state the entire day, that day could not count towards the day count. In other words, according to BSI, if the plane left Phoenix Friday afternoon for Las Vegas and returned Sunday, it was not in the state for license tax purposes for any of those three days.

The Court of Appeals disagreed, ruling that the word "day" in A.R.S. § 28-8336 includes any calendar day during which an aircraft is on the ground in Arizona for any period of time. The Court cited other statutory instances in which the word "day" did not mean the entire day. The Court also ruled that ADOT's interpretation was consistent with and furthered the goals of the broader statutory scheme. It also stated that applying BSI's definition would lead to anomalous if not absurd results insofar as owners of aircraft that spent most of their time on the ground would pay significantly higher taxes than owners who regularly use airport facilities for takeoffs and landings. BSI has filed a petition for review with the Arizona Supreme Court.

Wilbur-Ellis Company v. ADOR - This case concerns a refund request for \$8,312,145 plus interest for transaction privilege tax paid on fertilizers and pesticides sold to commercial growers in Arizona over a four-year period. The taxpayer claimed these items were exempt under A.R.S. § 42-5061(A)(33) as "propagative materials," and as sales for resale (as to fertilizers), arguing that the fertilizer becomes a part of the plant or plant product that is then resold. The Department of Revenue estimated that a loss in this lawsuit could cause other sellers of such items to make refund claims of up to \$90 million, not including interest.

On cross-motions for summary judgment, the Arizona Tax Court granted the Department's Motion for Summary Judgment. Judgment has been entered and the taxpayer has appealed to the Arizona Court of Appeals.

Cost Savings to the State

It is difficult to precisely measure savings to the State generated as a result of the Tax Section's work on behalf of ADOR. In property tax cases, the savings from a victory rarely inure to the State because although ADOR (as opposed to county assessors) values certain properties 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. 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. The Tax Section's efforts safeguard ADOR's ability to collect certain taxes, and perhaps more importantly, ensure ADOR is represented in matters seeking the refund of millions, tens of millions, and occasionally hundreds of millions of dollars in tax revenue each year.

Transportation Section

The Transportation Section (TRN) 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. TRN also represents the Motor Vehicle Division of ADOT in regard to motor vehicle registration, driver licensing and other issues. TRN provides 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. TRN represents the Arizona Department of Public Safety (DPS) in regard to a host of licensing and certification issues, including concealed 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.

TRN has a Condemnation Unit that is primarily involved in eminent domain and construction contract litigation related to state highways. 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. They also provide advice on a wide range of topics including commercial driver license and motor carrier issues, over-dimensional permits, third party vendors and motor vehicle dealerships.

Attorneys representing DPS provide advice on a wide variety of issues including criminal history record information, commercial vehicle enforcement, impounds, the crime lab and fingerprint clearance cards. They also defend agency decisions related to suspension and denial of private investigator and security guard licenses, school bus driver certifications, concealed weapons permits and other matters regulated by DPS.

TRN also reviews or drafts Intergovernmental Agreements, Interagency Service Agreements, and general

contracts on behalf of ADOT and DPS. The section frequently is involved in negotiation, review and revision before these agreements are finally approved.

Significant Matters and Case Highlights

Outside counsel has been appointed to assist TRN attorneys in representing the State in *PARC v. FHWA/ADOT, DJH and GRIC v. FHWA/ADOT*. The suits, which challenge the sufficiency of the Environmental Impact Statement prepared in regard to the L202 South Mountain Freeway project, were consolidated for briefing. Plaintiffs allege federal NEPA violations, including failure to adequately consider air toxics, traffic impacts, wildlife corridors and a host of others. The matters was briefed and argued in the United States District Court, and the court entered judgment in favor of FHWA/ADOT. Both plaintiffs appealed to the 9th Circuit, where the matters are now pending.

TRN Condemnation attorneys continue to provide legal advice and representation related to the L202 South Mountain Freeway project. This public private partnership (P3) is ADOT's largest single construction project, with costs estimated at just under \$2 billion.

TRN is representing ADOT in several eminent domain actions to acquire property wherein the property owners are seeking approximately \$24,000,000 more than ADOT's opinion of value.

TRN MVD attorneys successfully defended or obtained dismissals in 28 appeals related to agency administrative decisions.

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 \$11,949, 916.00.

Civil Assessments and Penalties - Totals

The section represented the State (i) in four motor carrier enforcement cases before ADOT's Executive Hearing Office which resulted in civil penalties totaling \$20,000 and (ii) in 2 motor vehicle dealership cases before ADOT's Executive Hearing Office which resulted in civil penalties totaling \$9,000.

