

Department of Law  
Office of the County Attorney

**2009 Budget Presentation**

Charlene M. Indelicato  
County Attorney

ANDREW J. SPANO  
County Executive

William Ryan, Chair  
Board of Legislators

# Mission Statement

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The mission of the Department of Law, Office of the County Attorney, is to respond effectively to the needs of County officers, boards, departments and agencies, regarding legal counsel and representation. The County Attorney is charged by law to serve as legal counsel to the County Executive, the Board of Legislators, and to the County and all of its constituent departments, agencies and boards. The mission of the County Attorney is achieved in a variety of ways, including: the rendering of legal advice to County officials and employees in order to assist them on various projects the County is undertaking or contemplating undertaking; the preparation and review of legal documents; the drafting of legislation; the rendering of legal opinions, and the advocacy of the County's interests in trial and appellate courts, including special administrative proceedings. In providing legal services to the County, the Office of the County Attorney endeavors to reduce actual and potential future liabilities and financial exposure of the County and to maximize receipts of monetary sums to which the County may be entitled. The Office of the County Attorney seeks to assure that the County workplaces are free of discrimination and harassment and that County contracts and business opportunities are awarded fairly and openly, with women and minorities having equal access.

In addition the Office of the County Attorney seeks to protect the interests of children, disadvantaged adults, and society from domestic violence and abuse. Our Family Court Bureau acts to safeguard children from acts of abuse and neglect and to establish and collect child support from legally responsible parents. The Office of the County Attorney presents cases of juvenile delinquency to the Family Court in order to protect the public from dangerous juveniles and to rehabilitate juveniles in order to assist them in growing into productive members of society.



## Tax Levy

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Currently, the Law Department's approved modified budget for 2008 is \$13,640,592. The 2009 Law Department Budget proposes an expense budget of \$13,349,162, which is a decrease of \$291,430 over the 2008 Modified Budget. Our 2009 Budget proposes a negative tax levy of (-1,023,605).

## Expenditures

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### Annual Regular (1010)

The 2009 Requested is \$176,596 greater than our 2008 Adopted Budget. This is due to salary increments we also eliminated one position to reduce the increase.

### Hourly (1200)

The 2009 Requested for our hourly account is \$8,500 which is a \$19,756 decrease from our 2008 Adopted Budget.

### Overtime (1400)

The 2009 Requested is \$2,000 which is the same amount as in our 2008 Adopted Budget, This amount is based upon work performed by support staff coverage on Election Day and the day after Thanksgiving, which are days the Law Department is required to work despite the County Offices being closed.

### Replacement Equipment (2300)

The 2009 Requested is a decrease of \$32,836 from the 2008 Adopted Budget. We have eliminated the purchase of, office equipment, software updates and have reduced the number of Law Book updates and renewals.

### Printing & Office Supplies (3600)

The 2009 Requested is a decrease of \$1,013 from our 2008 Adopted Budget based upon our reducing paper use.

### Postage Cost (3700)

The 2009 Requested is a decrease of \$791 from our 2008 Adopted Budget.

### Equipment Service & Rental (4070)

The 2009 Requested is a decrease of \$3,500 from our 2008 Adopted Budget.

### Membership Fees (4100)

The 2009 Requested is a decrease of \$700 from our 2008 Adopted Budget.

### Travel & Meals (4110)

The 2009 Requested is a decrease of \$2,000 from the 2008 Adopted Budget.

### OSHA Safety Program (4225)

The 2009 Requested is \$135,000 which is \$119,755 less than the 2008 Modified Budget. Since most of the OSHA programs in the county are updates, they take less time and funds to complete.

### Educational Training (4360)

The 2009 Requested is for \$25,500, which is a \$3,000 decrease from the 2008 Adopted Budget.

### Contractual Services (4380)

\$20,000 the 2009 Requested is the same as 2008 Adopted Budget.

### Technical Services(4420)

The 2009 Requested is the same as the 2008 Adopted Budget. This expense includes the cost of the Labor Negotiator and Arbitrators. The breakdown of arbitration cases are as follows: 90% of our arbitration fees are attributable to contract grievance and disciplinary arbitrations held with COBA and its members (the other ten percent are attributable to PBA and CSEA contract grievances). In the case of PBA and CSEA, the costs of the hearings (which averages \$1,500/day or a 25% fee increase) are evenly split between the respective union and the County. In the case of COBA, the fees are split up to the point where the union has expended \$20,000 on arbitration fees in any given year. Once that threshold is met, the County assumes 100% of the costs for the remainder of that year. In 2007, the union threshold was met in mid-February. The increase in the number of arbitration dates can be attributed to several factors: 1) the expiration of the COBA and PBA contracts; 2) the limit on the number of COBA disciplinary arbitrations has been raised by agreement from 3 to 5 per month. COBA has taken advantage of this increase and since October of 2006, an average of four arbitration dates per month have been scheduled; and 3) there has been a sharp rise in the number of contract grievances filed by COBA that have proceeded to arbitration. The total has resulted in an 81% increase in the number of Arbitration hearings from 2006.

### Litigation (4923)

The 2009 Requested of \$1,673,678 is a \$185,041 decrease from the 2008 Modified Budget. The amount requested for this account is as a result of a number of negotiated renewals which require specialized outside counsel as well as all costs related to the Anti-Discrimination Case. This is a False Claims Act case against Westchester County alleging that the County made false statements to the federal government in its application for housing grants and Community Development Block Grant funds, which is handled by the Department of Planning. In 2008, our Litigation Account was increased by **\$864,962** from our requested 2008 budget as a result of the costs related to the Anti-Discrimination Case being placed into our 2008 budget by the Board of Legislatures. The cost of this case in 2008 is expected to reach \$1.7 million and in 2009 it is expected that the case will cost the County and in particular, the Law Department, approximately \$1,100,000.

### Interdepartmental Charges

The 2009 Requested Budget is a decrease of almost \$99,558 from the 2008 Adopted Budget. This is due largely to a decrease in the amount that IT charges for services, Data Processing charges and charges for the Record Center storage.

## **Revenue**

The Law Department's hourly rate charged to all County departments for law services for the current year is \$135. The calculated rate for 2009 budget is \$139. This hourly rate represents all billable hours produced by our Assistant, Senior and Associate County Attorneys, however it excludes all hours produced by the Assistant Chief Deputy County Attorneys, Chief Deputy County Attorney and County Attorney.

### Interdepartmental Revenue (9508)

The 2008 allowed figure for Interdepartmental revenue for the Law Department is \$11,054,070. This is an increase of approximately \$368,842 over 2008 estimates.

### Departmental Revenue

The 2009 allowed revenue figure for Departmental revenue is \$2,555,376. This is an increase of \$ 96,213 from 2008 estimates due to an increase in billable hours to Risk Management, Environmental Facilities and Westchester Community College.

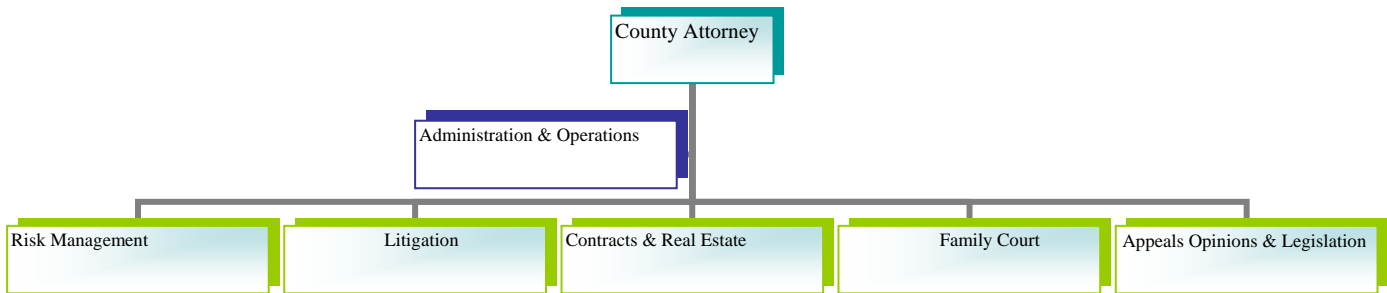
The increases in both Interdepartmental and Departmental revenue are due to the higher attorney hourly rate as well as the ever-increasing caseload for the Law Department. In particular, we anticipate performing extensive legal work related to: the continuing implementation of HAVA; negotiating, drafting and monitoring of Consent Orders with the New York State Department of Environmental Conservation regarding Biological Nutrient Removal (BNR), dams and sewer district issues; legal representation to the Department of Social Services based upon a substantial increase in cases involving child protection; and substantial work related to amending County personnel policies with the goal of increasing productivity while reducing expenditures.

# Introduction

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In 1937, the Westchester County Board of Supervisors created the Department of Law, to be headed by a County Attorney, who would be appointed by the County Executive with the approval of the County Board. The new Department was mandated to “have charge of and conduct all of the civil law business of the County of Westchester and its departments.”

The present structure of the Law Department reflects the constant striving to fulfill this broad mandate in the most efficient and responsible manner possible. The Law Department is divided into four bureaus, each of which is focused on the different components of the “civil law business” of the County. In addition to the four Bureaus, the Department is responsible for the Office of Risk Management, which evaluates and reviews the County’s risk exposure. The organization of the Department is summarized in the following chart:

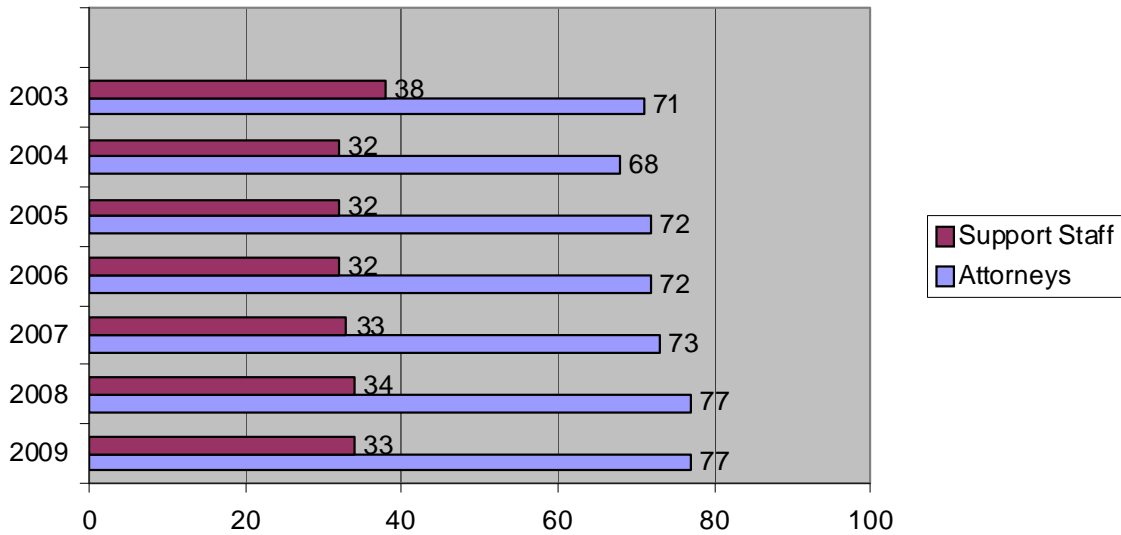


The Department of Law occupies approximately 23,000 square feet of space, utilizing the entire sixth floor and a portion of the second and seventh floors of the Michaelian Office Building. The Department is in proximity to the County Executive’s Office, the Board of Legislators, the Federal and County Court House Buildings, the District Attorney’s Office and many of the other County Departments that it serves.

The Law Department’s overall staffing level for 2008 has decreased by one employee for a total of 110 personnel. This number represents the number of authorized positions. The composition of the County Attorney’s office is shown below.

The Law Department staff consists of the following positions (including Risk Management):

## Law Department Staffing Levels



Title	Number of Positions
County Attorney	1
Chief Deputy County Attorney	1
Assistant Chief Deputy County Attorney	3
Director of Risk Management	1
Associate County Attorney	8
Senior Assistant County Attorney	22
Assistant County Attorney	42
Special Assistant to the County Attorney	1
Senior Risk Management Analyst	1
Management Assistant (Investigations)	1
Risk Management Analyst	1
Executive Secretary to the County Attorney	1
Administrative Assistant	1
Program Specialist (Risk Management)	1
Paralegal	4
Sr. Info Systems Clerk	1

Title	Number of Positions
Office Asst. Word Processing	1
Messenger	1
Staff Assistant (Risk Management)	1
Accounting Control Specialist	1
Legal Secretary II	5
Legal Secretary I	9
Docket and File Clerk	1
Receptionist	1
<b>Total</b>	<b>110</b>

**Administration**

County Attorney	1
Special Assistant to County Attorney	1
Executive Secretary to County Attorney	1
Administrative Assistant	1
Receptionist	1
Messenger	1
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**Litigation Bureau**

Asst Chief Deputy County Attorney	1
Associate County Attorney	2
Sr. Assistant County Attorney	9
Assistant county Attorney	9
Management Assistant Investigations	1
Paralegal	2
Legal Secretary II	1
Legal Secretary I	4
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**Appeals, Opinions**

Chief Deputy County Attorney	1
Associate County Attorney	3
Sr. Assistant County Attorney	1
Assistant County Attorney	1
Legal Secretary II	1
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**Contracts Bureau**

Asst Chief Deputy County Attorney	1
Associate County Attorney	1
Sr. Assistant County Attorney	4
Assistant County Attorney	7
Paralegal	1
Legal Secretary II	1
Legal Secretary I	2
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**Family Court Bureau**

Asst Chief Deputy County Attorney	1
Associate County Attorney	2
Sr. Assistant County Attorney	8
Assistant County Attorney	25
Docket and File Clerk	1
Paralegal	1
Legal Secretary II	2
Sr Information Systems Clerk	1
Legal Secretary I	3
Office Assistant Word Processing	1
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**Risk Management**

Director of Risk Management	1
Sr. Risk Management Analyst	1
Risk Management Analyst	1
Program Specialist	1
Staff Assistant(Risk Management)	1
Accounting Control Specialist	1
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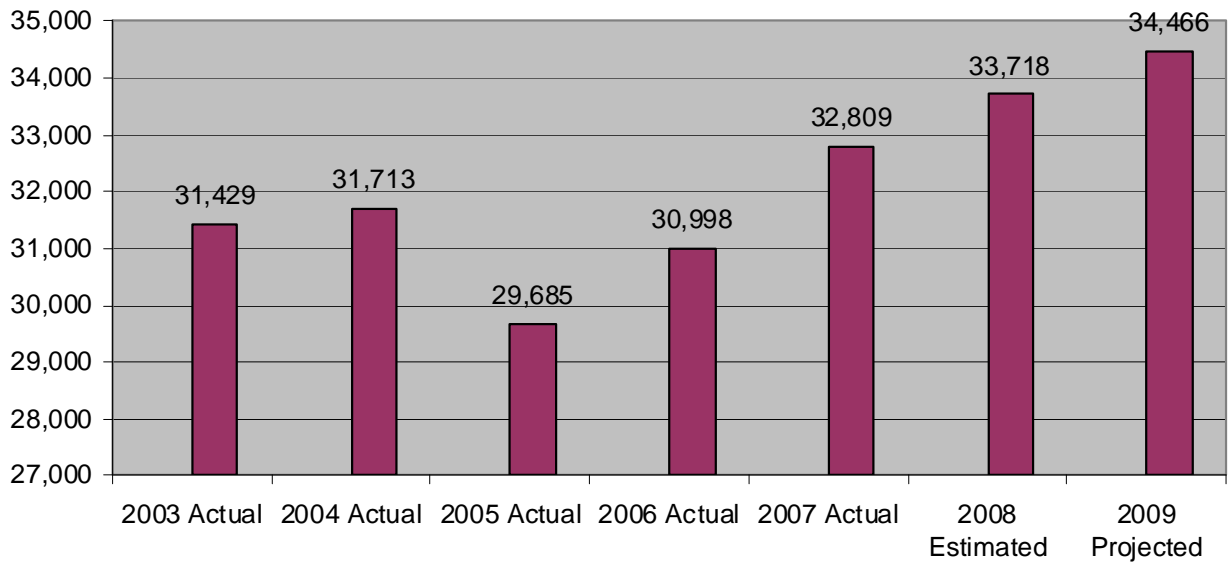
The 2009 Law Department Budget shows a decrease in our total position count by one to 110 total staff, however, the number of cases continues to increase along with the complexity of the matters handled by the Law Department. Very often, the most complicated matters are also the most time sensitive. Managing these matters requires maximum effort and commitment by staff, with concomitant strain on personnel. The results of these efforts show in the number of notable successes achieved thus far in 2008 by the Office of the County Attorney. Pursuant to Chapter 158 of the Laws of Westchester County, only the County Attorney and her staff are authorized to provide legal services to the County and its Departments. In light of the increases in the caseload and legal mandates required by law with regard to protection of children and families, combined with the prohibition against any Department hiring their own attorneys directly to handle legal matters, nine of these attorney positions, one Legal Secretary I position and one Office Assistant Word Processor, are being funded by the Westchester County Department of Social Services.



## Revenues

The increase in case levels is evident in all bureaus and involves all legally mandated services, including but not limited to family court proceedings, litigation defense of the County, legislation, contract preparation and review, appeals and advisory opinions.

**Number of Cases**



## **Breakdown of Cases by Bureau**

<i>Bureau</i>	<i>2006 Actual</i>	<i>2007 Actual</i>	<i>2008 Estimated</i>	<i>2009 Projected</i>
<b>Litigation</b>	3,200	3,572	3,758	3,876
<b>Appeals</b>	1,310	1,395	1,478	1,532
<b>Contracts</b>	10,288	10,596	10,807	11,023
<b>Family</b>	16,200	17,246	17,675	18,035
<b>Grand Total</b>	<b>30,998</b>	<b>32,809</b>	<b>33,718</b>	<b>34,466</b>

The Law Department generates two separate revenue streams:

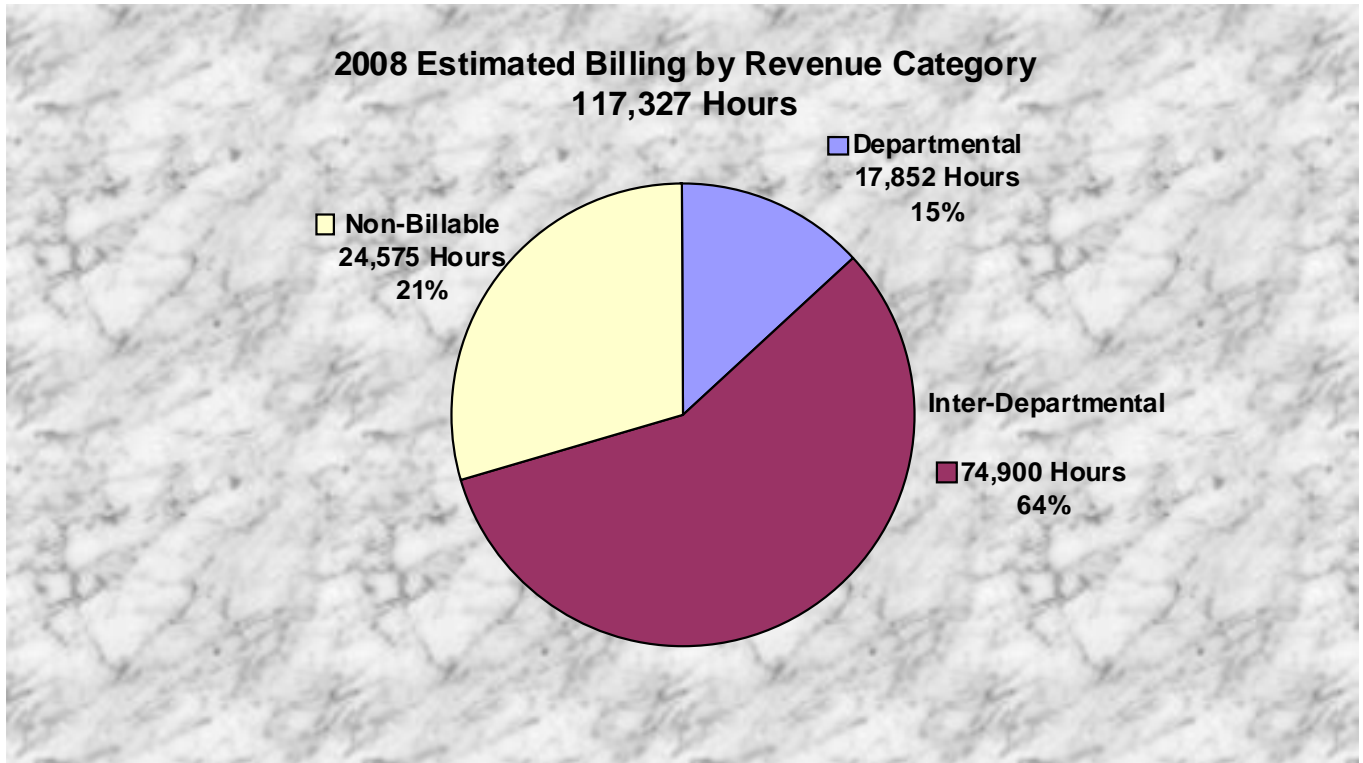
- Departmental revenues are generated through charges billed to other funds including the 6-N Fund, Sewer, Water, and Refuse Disposal District Funds and the Westchester Community College Fund. This billing is generated as a result of legal services that are provided by the Law Department to these entities.

- Inter-Departmental revenues are received from County departments for which the Law Department performs essential legal services. Departments included in this revenue stream include the following: Public Works, Human Resources, Public Safety Services, Parks and Recreation, Planning, County Clerk, Department of Social Services, Community Mental Health, the Budget Department, Finance, the Department of Health, Information Technologies, Probation, Corrections, Transportation, etc.

These billing charges are based on the number of hours that each attorney spends providing legal advice, research or services for each of these Departments on various matters. Charges are based on hourly rates derived from the Law Department's operating costs and these rates are established each year in conjunction with the Budget Office when the County's Budget is prepared. The hourly rate is based on the Law Department's direct and indirect costs, while it excludes the usual and customary expenses incurred in representing our clients in such accounts as contractual services, technical services and litigation. The hourly rate for the current 2008 fiscal year is \$135.00 per hour.

The reason that billable hours are used both with cases handled by this Department and outside counsel is one of accountability and fiscal responsibility. The department being represented is then charged with monitoring their use of attorney's time much like private practice. It has also allowed the Law Department to clearly track the hours attorneys spend on various legal matters. In short, it is a system of checks and balances for legal work of the County.

## Breakdown by Revenue Category



As indicated by the above chart approximately 21% of the Law Department service hours are not billable. This equates to approximately 24,575 hours of client services. This includes services provided to elected officials including the offices of the County Executive, the Board of Legislators and the District Attorney as well as statutorily mandated juvenile delinquency prosecutions. The County Attorney and the Deputies in charge of each bureau do not bill for direct client services or supervision, nor are their hours included in these figures. Notwithstanding the fact that the Deputy County Attorneys do not bill for their time, they are primarily responsible for providing legal advice directly to the Board of Legislators. Specifically, in January of 2008, the Board of Legislators appointed a Litigation Subcommittee which considers all legal matters both before the full Board as well as any other legal matter being handled by the Law Department. The Assistant Chief Deputy County Attorney in charge of the Litigation Bureau must appear before this Subcommittee as well as the County Attorney and Chief Deputy County Attorney at various times. In addition, the Assistant Chief Deputy County Attorney in charge of the Litigation Bureau appears before the Board's Committee on Budget and Appropriations on a regular basis with regard to case settlements, requests to initiate litigation and other various legal matters that require Board of Legislator approval. The Assistant Chief Deputy County Attorney in charge of the Litigation Bureau appears before the Board's Committee on Budget and Appropriations on a regular basis with regard to case settlements, requests to initiate litigation and other various legal matters that require Board of Legislator approval. The Deputy County Attorney in charge of the Contracts and Real Estate Bureau frequently appears before various Board Committees with respect to contractual, affordable housing and energy issues. The Chief Deputy County Attorney attends all of the

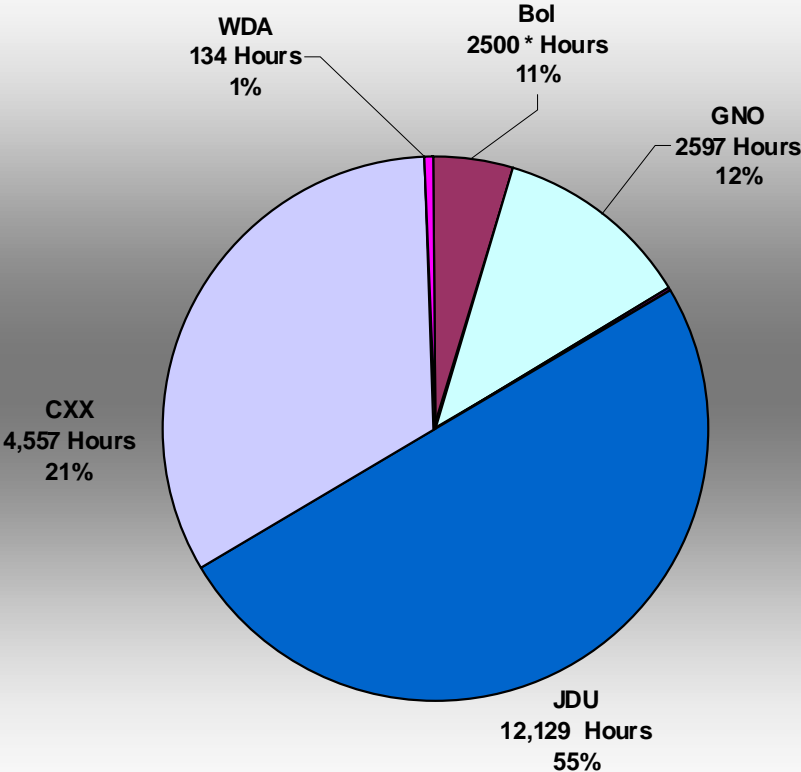
regular and special Board of Legislator meetings and attends various Board Committee meetings with regard to proposed legislation as well as any other matter where the Board requests legal counsel. It is estimated that the County Attorney, Chief Deputy County Attorney and the Assistant Chief Deputy County Attorneys make approximately 200 to 250 appearances before the Board of legislators on various issues in a year. Non-billable services also include all attorney time billed directly to the Law Department.

The vast majority of the Law Department’s revenue that is billable comes from Inter-Departmental billing, which comprises 64% of the attorneys’ work time or approximately 74,900 hours for the 2008 fiscal year.

The second largest source of revenue for the Law Department is Departmental billing. Billing to Environmental Facilities, Public Utility Agency, Risk Management, Westchester Community College, and the Division of Solid Waste billing is considered Departmental billing. Each of these Departments contains their own separate funds and therefore their billing is maintained in a separate revenue stream than the Inter- Departmental billing. We estimate that the attorneys will spend approximately 17,852 hours on Departmental matters for the 2008 fiscal year or 21%.

The breakdown of non-billable services is detailed in the chart below:

**2008 Projected Non-Billable Revenues: 24,575 Hours**



These figures exclude the approx. 32 days on average that each attorney submits for leave (annual, personal, sick, extended leave, and County Holidays).

\*Please be advised that this number represents only the work performed for the BOL by attorneys required to bill for their time. This number does not include the hours devoted to BOL work handled by the Assistant Chief Deputy County Attorneys, the Chief Deputy County Attorney and the County Attorney who do not bill for their time. Since a good portion of the work for the BOL is carried out by the top management of the Law Department, including the estimated time of the Deputies and County Attorney in the calculation would increase the non-billable hours for the BOL from 11% to approximately 14% of the total number of non-billable revenue.

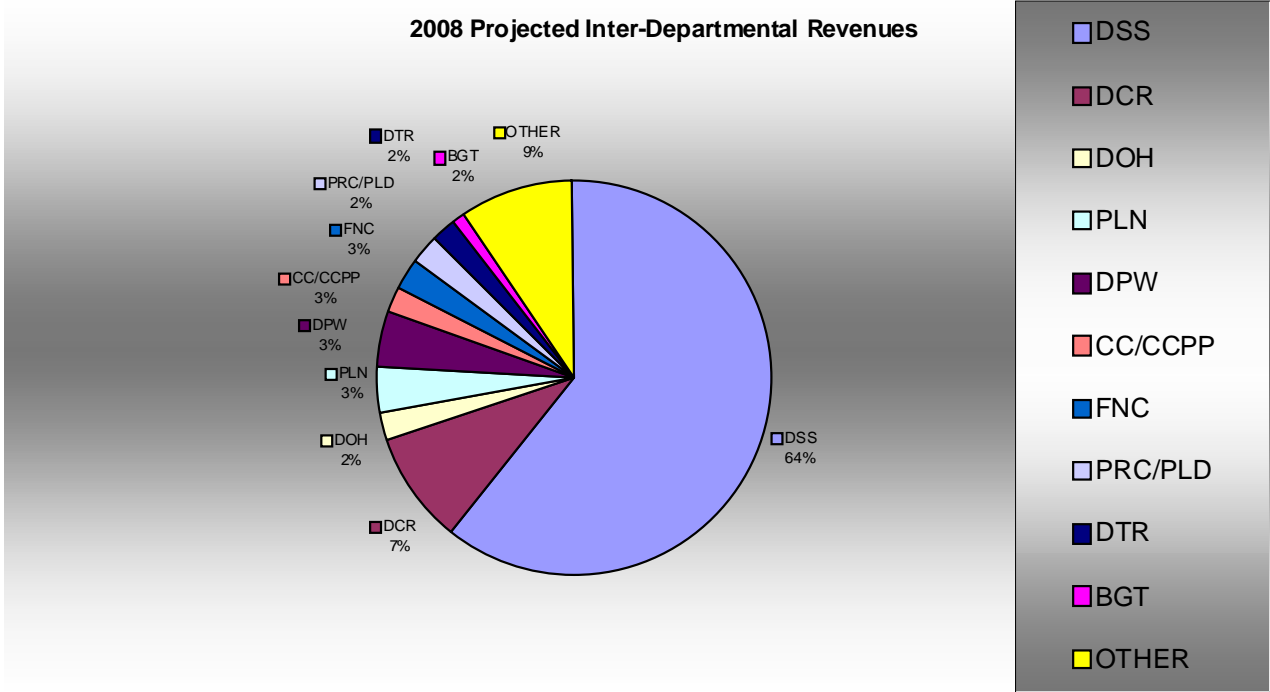
For the fiscal year that will end December 31, 2008 the Law Department is projecting to provide approximately 92,752 hours of billable client services, yielding over \$12,521,152 from both revenue streams: Inter- Departmental and Departmental. If the number of hours for non-billable services is included, then the number of hours for the year increases to approximately 117,327 hours. We expect to see an increase in litigation as a result of our current economic crisis. In testimony before the House Committee on Ways and Means on October 29, 2008, Governor Paterson, stated that “Unprecedented turmoil on Wall Street has left our state in the throes of its most severe economic crisis since the Great Depression. Americans have watched the fabric of our economic system unravel and the values of their 401(K)’s evaporate, leaving them confused, angry, and wondering who is to blame for the near collapse of our financial system.” According to Governor Paterson, at a time when citizens need their governments the most, federal, state and local governments are least equipped to help them because of plummeting revenues. In difficult economic times, those who are suffering most are the poor and disadvantaged who will look to the County to provide them with needed services. History shows that during economic downturns, Medicaid and Human Services caseloads will increase dramatically. While there will be a greater demand for government funded services, we will be left with diminishing budgets and decreases in state and federal funding to provide those services. Accordingly, the current economic crisis will likely cause an upswing in lawsuits involving the County. A recent article in a legal publication, Lawyers USA, indicates that the credit crisis and market volatility will force governments as well as not for profits to re-examine their budgets and look for opportunities to cut costs. International law firm Fulbright & Jaworski’s latest litigation trends survey show that close to 45% of counsel surveyed indicated that they expect to see an increase in all types of litigation spurred by the economic crisis. Stephen Dillard, who heads the firm’s global litigation practice believes that when the world is in a period of economic challenge, there is likely to be litigation over who is to blame and who should pay for the consequences. Moreover, according to an October 30, 2008, article in the Los Angeles Times, litigation often grows during a bear market with additional labor and employment issues and lawsuits involving reductions and reallocation of staff. In addition, there will in all likelihood be an increase in litigation involving competitive bidding from businesses seeking to do work for the County who may not have been awarded contracts as well as regarding contract violation, payment and termination issues.

Moreover, we anticipate performing extensive legal work related to: the continuing implementation of HAVA; negotiating, drafting and monitoring of Consent Orders with the New York State Department of Environmental Conservation regarding Biological Nutrient Removal (BNR), dams and sewer district issues; legal representation to the Department of Social Services based upon a substantial increase in cases involving child protection; and substantial work related to amending County personnel policies with the goal of increasing productivity while reducing expenditures. In addition, a senior attorney in the Contracts Bureau has been handling all of the legal and much of the administrative work related the County of Westchester Public Utility Service Agency (COWPUSA). The significant amount of time spent on the matters related to COWPUSA prevents this attorney from working on other contracts matters which places a considerable strain on the resources of the Contracts Bureau. Accordingly, notwithstanding reductions in law department personnel and funds, it is anticipated that our workload and billable hours will rise substantially.

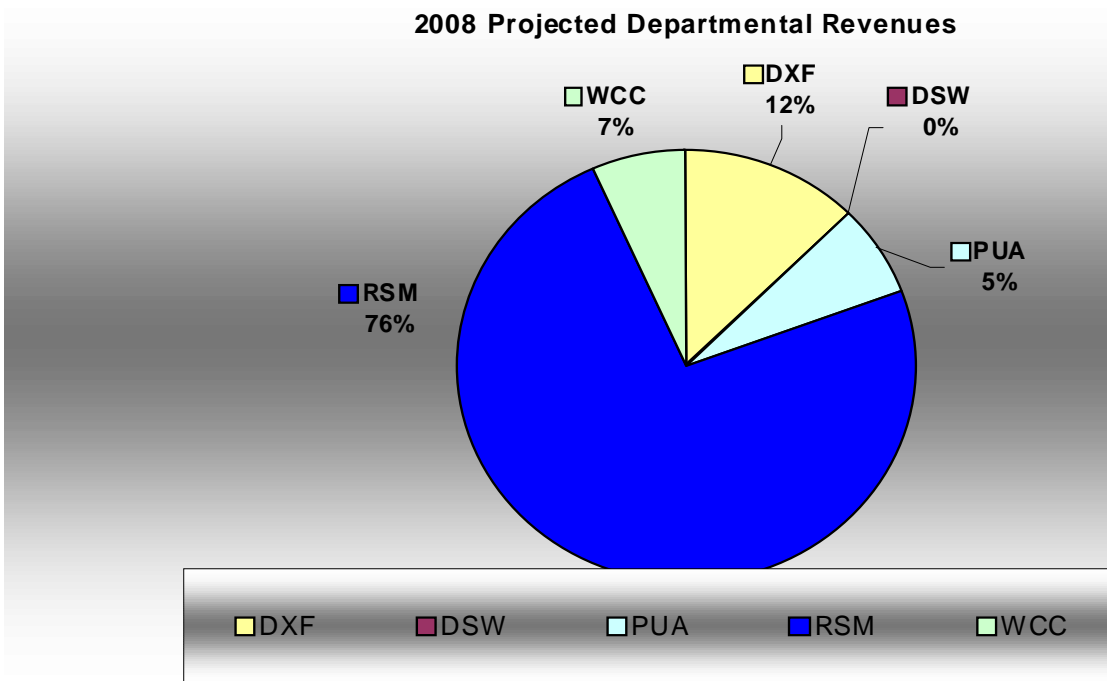
Moreover, the change in the federal court system regarding electronic communications and its role in the discovery process also has and will continue to increase hours billed by the Law Department. Discovery in litigation is not limited to paper documents as the courts have expanded discovery to include all electronic communication (e-mails, voice mail, instant and text messaging, text files, word processing documents, electronic spreadsheets and data stored on blackberries and PDAs). We have begun educating Departments involved in federal litigation of the necessity of litigation holds for all documents/emails/voicemails, etc, relating to pending litigation matters. In other words, once litigation is reasonably anticipated, all Departments involved in the litigation must ensure that key players cease deleting their e-mails and relevant documents. The Law Department is obligated to ensure that this happens and to continue to remind the Departments and key players during litigation that their obligation to retain these documents is on-going. In order to ensure that litigation holds are properly established and enforced, the Law Department must work closely with the IT Department to establish specific procedures to be used on an on-going basis when litigation hold notices are sent so that the County is in compliance with applicable law. IT has also been aiding us in compiling and searching the e-mails of “key players” in pending federal litigation so that we can properly respond to discovery demands that the County has received in these cases. These new federal rules require a great deal of work in federal litigation not only to collect the data requested, but to review the data to determine the specific information that needs to be turned over in the discovery process.

The County’s obligations regarding e-discovery in federal and state litigation as well as the impact of electronically stored information on the County’s records retention policies continue to be developing issues for the County. In order to comply with e-discovery, a business plan needs to be developed by IT to address how the County will maintain its current documents in electronic form and ensure that these documents are properly maintained for purposes of litigation and records retention. IT drafted a new Records Retention policy which has been approved by the Westchester County Records Commission and will be distributed shortly. In addition, IT has met with numerous vendors with respect to purchasing a new tool to enable to County to remain compliant with new electronic document retention and E-Discovery requirements in the Federal Courts. Training of appropriate departmental personnel will be required to ensure such policy is implemented and adhered to accordingly.

The projected Inter-Departmental breakdown of revenue for 2008 is charted below.



The projected breakdown of the Departmental revenues for 2008 is shown below:



Risk Management’s departmental revenue is derived from reimbursement from the 6-N fund for expenses associated with the investigation and claims management of general, automobile, public officials and medical malpractice liability claims. Staff time is allocable to this function in addition to other indirect costs.

### Risk Management Quantitative Indicators

	2007 Actual	2008 Estimated	2009 Projected
Medical Malpractice WMC:	12	15	15
Medical Malpractice *	12	20	25
General Liability	221	225	235
Automobile Liability	46	50	50
Third Party Recoveries	\$319,123	\$301,214	\$330,000
Driver Abstracts Reviewed	3,800	3,800	3,800
Contracts Reviewed	4,084	4,200	4,200
Safety Related Meetings **	155	160	165

\*These are Medical Malpractice claims by inmates against our correctional health services.

\*\* Asbestos Training, Fire Warden Training, Respiratory Protection Training.

Text Box: Note: \*Medical Malpractice WMC are claims that the County are named in and the Office of Risk Management tracks to insure the all contractual obligations are being met under indemnity provisions of the Medical Center agreement.

For 2009 risk management has added a new revenue source, which is the collection for the Public Safety police man hours. It is also expected that an increase in overall collections for property damage will be undertaken by risk management on behalf of DPW, DPS, Parks and any other department.



## Highlights of Law Department Accomplishments 2008

### Appeals, Opinions and Legislation Bureau

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**Name of Accomplishment: Conducting Freedom of Information Law (“FOIL”) Training for County Employees**

When Initiated: 2004

Current Status: Several presentations conducted each year. Also available upon request of Commissioner/Department Head.

Description: This presentation, to be provided by members of the Law Department, will contain information, including the most recent updates to the Freedom of Information Law and general guidance to County officers and employees who are designated to be the FOIL officers of their particular County department, in accordance with the New York State Public Officers Law and the Laws of Westchester County. The objective of these seminars is to educate County employees on various FOIL issues and procedures.

**Name of Accomplishment: Conducting Ethics for Westchester County Employees**

When Initiated: 2008

Current Status: Presentation held for County Attorneys and District Attorneys. Also available upon request of Commissioner/Department Head for their departments.

Description: This presentation, to be provided by members of the Law Department, contains information regarding the New York State General Municipal Law, the Westchester County Code of Ethics and Executive Orders No. 3-2007 and 1-2008 to provide general ethical guidance to County officers and employees. The objective of this seminar is to educate County employees on various ethical issues and procedures.

**Name of Accomplishment: County Clerk Filing Fees**

When Initiated: 2008

Current Status: Pending

Description: This proposed local law would opt into Chapter 288 of the Laws of 2008 to increase fees with respect to the Recording, Entering, Indexing and Endorsing a Certificate on Any Instrument. In light of the fact that the New York State Legislature continues to significantly reduce critical State funding desperately needed by Westchester County to fund the numerous State mandates imposed upon it, the New York State Legislature amended the New York State Civil Practice Law and Rules to authorize county clerks to increase fees for recording, entering, indexing and endorsing certificates on any instrument from five dollars to twenty dollars and increase each page or portion of page from three dollars to five dollars if the counties opt into this provision of State law (Chapter 288 of the Laws of 2008).

**Name of Accomplishment: Stream Control Law Amendments**

When Initiated: 2008

Current Status: Not yet introduced

Description: This local law would amend Westchester County’s Stream Control Law to address the increase in the frequency of flooding in Westchester due, in part, to land development and increases in impervious cover without commensurate storm water runoff management facilities. This legislation, if adopted would increase the Commissioner of Public Works’ authority and

jurisdiction by increasing the number of channel lines and requiring certain permits to be issued which would address and possibly reduce the frequency and intensity of flooding in Westchester County.

**Name of Accomplishment: Taxable Status Date**

When Initiated: 2008

Current Status: Completed

Description: This local law amends the Laws of Westchester County to create an option for local towns to use an alternate taxable status date. Local assessors have requested that the County enact this proposed change to the Laws of Westchester County to allow for a local option because of their timing difficulties with respect to accepting exemption applications, finalizing other work relating to the valuation of real property and meeting the requirement of publishing the Tentative Assessment Roll.

**Name of Accomplishment: Plastic Bag Recycling**

When Initiated: 2008

Current Status: Completed

Description: This local law established an at-store recycling program for plastic bags. This proposed law requires certain large retail establishments to: (1) place a collection bin to collect these plastic carryout bags at or near the entrance to their store; and (2) collect, transport and recycle these plastic bags.

**Name of Accomplishment: Cold War Veterans' Real Property Tax Exemption**

When Initiated: 2007

Current Status: Completed

Description: Prepared draft Local Law to provide qualified owners with the Cold War Veterans' tax exemption authorized by newly adopted Section 458-b of the Real Property Tax Law. Pursuant to the state legislation authorizing this exemption, a Cold War veteran is defined as an individual who was honorably discharged subsequent to service in the armed forces between the dates of September 2, 1945 and December 26, 1991. Qualified owners who are currently receiving a Veteran's Exemption pursuant to Section 458 of the Real Property Tax Law or an Alternative Veteran's Exemption pursuant to Section 458-a of the Real Property Tax Law are ineligible for the new Cold War exemption. The Local Law was adopted by the Board of Legislators on January 22, 2008.

**Name of Accomplishment: Volunteer Firefighters' and Volunteer Ambulance Service Members' Real Property Tax Exemption**

When Initiated: 2008

Current Status: Pending

Description: Drafted Local Law that, if approved, would adopt a local option providing a real property tax exemption to Volunteer Firefighters and Volunteer Ambulance Service Members and would, in certain circumstances, continue the exemption for the unremarried surviving spouse of a deceased volunteer. This local option is authorized by Sections 466-d, 466-f and 466-h of the New York State Real Property Tax Law.

**Name of Accomplishment: Legislation Restricting the Sale of Over-the-Counter Products Contained Dextromethorphan to Minors**

When Initiated: 2008

Current Status: Passed by the Board of Legislators and approved by the County Executive in August, 2008. The legislation will become effective in December, 2008, which is 120 days after the law's enactment.

Description: Drafted a Local Law to restrict the sale of over-the-counter medications containing dextromethorphan ("DXM") to minors. The Local Law provides for the imposition of civil penalties for multiple violations as follows: a notice of violation shall be issued for the first violation; a civil penalty not to exceed \$150.00 shall be imposed for a second or subsequent violation. The legislation will serve as a meaningful deterrent to the practice of "robotripping", which is the excess consumption of medications containing DXM for recreational drug use.

**Name of Accomplishment: Legislation Establishing Fines for Permitting the Consumption of Alcoholic Beverages by a Minor.**

When Initiated: 2008

Current Status: Passed by the Board of Legislators and approved by the County Executive in August, 2008. The legislation became effective immediately upon enactment.

Description: Drafted a Local Law to establish fines for hosting, allowing, entertaining, organizing, permitting or suffering a party, gathering or event where minors are present and alcoholic beverages are consumed by any minor. The Local Law provides for the imposition of civil penalties for first and second violations as follows: a civil penalty of \$250.00 shall be imposed for a first violation; a civil penalty of \$500.00 shall be imposed for a second violation. A third violation of the Local Law constitutes a misdemeanor and carries criminal sanctions of a fine of \$1,000.00, a term of imprisonment not to exceed one year or both a fine of \$1,000.00 and a term of imprisonment not to exceed one year. The legislation will serve as a meaningful deterrent to the underage consumption of alcohol by minors on privately owned property

**Name of Accomplishment: Legislation Prohibiting the Use of Lawn Fertilizer Containing Phosphorus**

When Initiated: 2007

Current Status: Pending

Description: This proposed legislation would amend the Laws of Westchester County to prohibit, except in limited circumstances, the application and sale of lawn fertilizer containing phosphorus within the County. In addition, the law would restrict application of any fertilizer between April 1st and November 1st annually (in lieu of a ban on fertilizer application when the ground is frozen); require lawn fertilizer retailers to post signs explaining the proposed legislation and the effects of phosphorus and nitrogen on Westchester waters; require licensed landscapers to distribute informational materials on this proposed legislation and the effects of phosphorus and nitrogen on Westchester waters; require licensed landscapers who provide lawn services to take a turf management course and require Westchester County to conduct a public education campaign on, among other things, impacts of nitrogen and phosphorus on water quality. The proposed legislation went before the Committee of the Whole for consideration on September 8, 2008.

**Name of Accomplishment: Legislation Requiring Chain Food Service Establishments to Post Calorie Content Values of Menu Items**

When Initiated: 2007

Current Status: Pending before the Board of Legislators after having been approved by the Committees on Legislation and Community Services.

Description: This proposed legislation would require chain food service establishments to post the calorie content values of menu items on menus and menu boards. A chain food service establishment would be defined as “a food service establishment, as defined in the Westchester County Sanitary Code, that is one of a group of 15 or more food service establishment locations anywhere, whether in Westchester County or elsewhere, offering for sale substantially the same menu items, in servings that are standardized for portion size and content, that operate under common ownership or control, or as franchised outlets of a parent business, or do business under the same name.” The proposed legislation is intended to assist consumers in making healthy food choices.

**Name of Accomplishment: Legislation Enhancing the Provisions of the County’s Source Separation Law**

When Initiated: 2007

Current Status: Adopted as Local Law 8-2008.

Description: This legislation enhanced the County’s Source Separation Law by: eliminating many of the distinctions between *Residential* and *Nonresidential Recyclables* and combining the two definitions into a single definition entitled *Recyclables*. Parity between the *Residential Recyclables* definition and the *Nonresidential Recyclables* definition ensures that all readily recyclable materials are collected from all sources and will enable a more streamlined inspection and enforcement process. This law will provide the County with valuable information regarding recycling practices throughout the community and adjusts the fine structure for violation of the County’s Source Separation Law to bring the County’s law more closely into uniformity with the fine structures utilized in surrounding counties. The law also prohibits the theft of certain recyclable materials that have been placed in a location designated for recyclables collection and/or removal by a municipality or licensed hauler or recyclables broker, and establishes criminal penalties for the violation of this provision.

**Name of Accomplishment: Legislation Establishing a Program to Reimburse Owners of Certain Parcels for Routine Septage Removal and Inspection Service Costs**

When Initiated: 2007

Current Status: Adopted as Local Law 9-2008.

Description: This legislation authorizes the establishment of a program by the Commissioner of Environmental Facilities to reimburse owners of lots or parcels of land located within any County sewer district which are not connected to the public sanitary sewer for the costs, as determined by the Commissioner, associated with routine septage removal services from separate sewage disposal systems and routine inspection services of separate sewage disposal systems. Septage removal reimbursement occurs on a 3-year cycle, while inspection reimbursement occurs on a 6-year cycle.

**Name of Accomplishment: Legislation Establishing the Westchester County Fair Housing Law**

When Initiated: 2007

Current Status: Adopted as Local Law 4-2008.

Description: This legislation adopted the Fair Housing Law as a separate and distinct part of the Westchester County Human Rights Law. The terms and provisions of the Fair Housing Law are substantially equivalent to the terms and provisions of the federal Fair Housing Act. Passage of this law was necessary to ensure certification from the U.S. Department of Housing and Urban Development (“HUD”). Such certification ensures that the County will receive HUD funding and support for its efforts in addressing unfair real estate practices.

**Name of Accomplishment: Use of Wireless Devices While Operating a Motor Vehicle**

When Initiated: 2007

Current Status: Passed by Board of Legislators and approved by the County Executive on September 10, 2008. The legislation will become effective on Monday, March 9, 2009, which is 180 days after the law’s enactment.

Description: Drafted legislation which amends the Laws of Westchester County to ban motorists from using wireless handsets to compose or send text messages while operating a motor vehicle. This legislation is one of many measures that the County has taken in order to reduce the number of accidents and injuries on the County’s roadways. The legislation would not only protect those motorists, especially teenagers, who engage in this dangerous behavior and their passengers, but would also protect other innocent motorists and their families from becoming victims of this form of distracted driving.

**Name of Accomplishment: Health Insurance Denial Legislation**

When Initiated: 2008

Current Status: Pending

Description: Drafted State legislation which, if adopted by the New York State Legislature would affirmatively establish the right of an insured to seek judicial review of the denial of health care coverage by a health care plan in an Article 78 proceeding or any other appropriate action or proceeding in a court of competent jurisdiction, and if successful, to recoup attorney’s fees and costs associated with the action or proceeding from the health care plan. This legislation would also ensure that notice is given to the insured regarding the right to bring an Article 78 proceeding or other appropriate action or proceeding to challenge any adverse determination made by the external appeal agent and the entitlement to reasonable attorney’s fees and costs from the health care plan if the insured prevails in the action or proceeding.

**Name of Accomplishment: Source of Income**

When Initiated: 2008

Current Status: Referred to Committees on Government Operations and Legislation

Description: Drafted legislation which amends the Laws of Westchester County in relation to prohibiting housing discrimination based on source of income. This proposed local law, similar to laws passed in many states and localities, would create an additional protected classification in the County’s Fair Housing Law and would prohibit discrimination in the sale, rental or lease of housing accommodations based on source of income. Source of income is defined as “lawful, verifiable income derived from social security, or any form of federal, state or local public assistance or housing assistance, grant or loan program, including the federal housing subsidy known as ‘Section 8’, disability payments, court-ordered payments, gift, inheritance, annuities, pensions, child and spousal support, but shall not include level of income.” Further, this local law makes clear that it was not intended to limit the applicability of any Federal, State or local laws, rules, regulations or restrictions on the residency of registered sex offenders. This proposed Local Law would take effect immediately.

**Name of Accomplishment: Matter of Ellis v. Mahon**

When Initiated: 2005

Current Status: Completed

Description: Petitioner, a former DSS food stamp Eligibility Examiner was terminated following a Section 75 hearing at which 159 of 209 Specifications of misconduct and/or incompetence were sustained. Petitioner challenged her termination by an Article 78 petition and alleged that she was the subject of the selective enforcement of work place rules, that the penalty of termination was excessive, and that the manner in which the Hearing Officer was selected and presided over the proceedings violated her right to due process. By Decision dated March 4, 2008, the Appellate Division granted the petition, ordered that Petitioner be reinstated as a DSS employee with back pay and benefits and remitted the matter to the County for the imposition of a penalty less severe than termination or suspension. The County was granted leave to appeal to the Court of Appeals and by Decision and Order, entered on September 9, 2008, the Court of Appeals reversed the Order of the Appellate Division (citing 2 prior Westchester County Court of Appeals decisions) and dismissed the Petition finding that the penalty of dismissal was appropriate because Ellis "consistently processed [food stamp] applications in particularly late fashion, even after multiple warnings concerning her poor performance."

**Name of Accomplishment: Matter of Torrance v. Stout**

When Initiated: 2005

Current Status: Completed

Description: This was an Article 78 action transferred to the Appellate Division pursuant to CPLR 7804(g). Petitioner County Parks employee alleged that the determination that he aided a friend in the conversion of County property was not supported by substantial evidence and that the discipline imposed, a demotion from a Grade VII position to a Grade IV position, was shocking to one's sense of fairness. By Decision and Judgment, entered on March 27, 2007, the Appellate Division granted the Petition to the extent of annulling the penalty and remitted the matter for the imposition of a lesser sanction. The County was granted leave to appeal to the Court of Appeals and by Order dated January 15, 2008, the Court of Appeals reversed the Appellate Division Judgment and dismissed the underlying Petition reiterating that the Appellate Division "has no discretionary authority or interest of justice jurisdiction" to review a penalty imposed pursuant to Section 75 of the Civil Service Law and therefore the penalty of demotion was appropriate.

**Name of Accomplishment: Matter of Tajah K.**

When Initiated: 2007

Current Status: Completed.

Description: The Appellant appealed a decision of the Family Court denying the Appellant's motion to recuse the court attorney referee. The Appellant claimed that the court attorney referee, a former attorney in the County Attorney's Office, Family Court Bureau, had to recuse herself from hearing the matter before the Family Court, pursuant to Judiciary Law §14 or the Code of Judicial Conduct. The court attorney referee refused to recuse herself and the Family Court separately held that there was no cause for the court attorney referee to recuse herself. The Appellate Division, Second Department, in a unanimous decision dated May 27, 2008, affirmed the decision of the Family Court, ruling in favor of Westchester County and holding that absent evidence of bias or prejudice on the part of the court attorney referee, recusal was within the discretion of the Family Court.

## **Contracts Bureau**

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**Name of Accomplishment: Miscellaneous Westchester County Health Care Corporation  
Matters**

**When Initiated: 1998**

**Current Status: Ongoing**

Description: Provide legal advice and counsel, research and drafting services, including drafting of necessary legislation, Board of Acquisition and Contract (“A&C”) resolutions and agreements to various County Departments in connection with:

Provide legal services for the proposed Cooperation Agreement to take the place of the Transition Agreement, including advice and counsel to the County Board of Legislators  
Legal issues related to the fiscal issues of WCHCC  
County’s Credit Support for Working Capital Program  
Inmate Health Care for the Department of Correction  
Mental Health Services  
Medical Services for residents of Secure Detention at Woodfield Cottage  
Forensic and microbiological services for inmates  
Toxicology, Autopsy and Public Health services

**Name of Accomplishment: Contracts for Board of Legislators.**

When Initiated: N/A

Current Status: Ongoing

Description: Assist Board staff with contracts and contract related questions. Prepare numerous contracts for the Board and related A&C resolutions. From the period of January 1, 2008 to October 28, 2008, the Law Department has assisted the Board with 105 such matters.

**Name of Accomplishment: Pharmaceutical Take Back Program**

When Initiated: 2008

Current Status: Complete

Description: Provided legal advice, legal research, drafted resolution and agreement for the County to amend the agreement with Wheelabrator Westchester, L.P. whereby Wheelabrator provides services for the disposal and incineration of solid waste/evidence that is witnessed by a police officer at the time of disposal in order to include Household Pharmaceutical Waste.

**Name of Accomplishment: Met Life**

When Initiated: 2008

Current Status: Ongoing

Description: Providing legal advice, legal research, drafting legislation and resolution for the County to elect to become a participating employer in the New York State Managerial/Confidential Life Insurance Plan for the benefit of the County’s managerial/confidential employees.

**Name of Accomplishment: Refuse Disposal District No. 1 – Solid Waste Disposal Agreement and Service Agreement; Related Intermunicipal Agreements**

When Initiated: 2006/2008

Current Status: Ongoing

Description: Providing legal advice, legal research and drafting services for the County, acting by and through the District, to send out Requests for Proposals to select a vendor or vendors for solid waste disposal services that will be necessary when the Solid Waste Disposal Agreement with Wheelabrator (Resco) expires on October 21, 2009. Participating in negotiations with sole proposer regarding new contract. Draft legislation and prepare agreements whereby the District will provide solid waste disposal services for the municipalities that are members of the District.



**Name of Accomplishment: Yonkers Tax Increment Financing**

When Initiated: 2008

Current Status: Ongoing

Description: Providing legal advice, legal research and drafting services for the County regarding a proposed Tax Increment Financing (“TIF”) project in downtown Yonkers. Proposed project includes housing and commercial space. County is being asked to pledge a portion of the incremental property tax generated by the development of the properties within the TIF district.

**Name of Accomplishment: 450 Saw Mill River Road**

When Initiated: 2006

Current Status: Complete

Description: Providing legal advice, legal research and drafting services for the County in connection with the purchase of 450 Saw Mill River Road for use by the Board of Elections for the storage of voting machines and for use by the Department of Public Safety for use as their administrative headquarters. Transaction closed, August, 2008.

**Name of Accomplishment: Cooperative Purchasing**

When Initiated: 2006

Current Status: Complete

Description: Providing legal advice and legal research to the Bureau of Purchase and Supply in connection with an initiative to allow bulk purchasing by multiple municipalities. County will initially participate in the Hudson Valley Municipal Purchasing Group.

**Name of Accomplishment: Waste Abuse Theft County Hotline (W.A.T.C.H.)**

When Initiated: 2008

Current Status: Ongoing

Description: This agreement with Silentwhistle, Inc. d/b/a Allegiance, Inc. provides a way for county employees to anonymously report instances of government abuse, fraud or waste. The Contracts Bureau drafted the agreement which is the basis for a toll-free hotline which allows County employees to anonymously report fraud, theft and abuse, which will be further investigated as appropriate.

**Name of Accomplishment: Contracts Management System**

When Initiated: 2007

Current Status: Complete

Description: Working with the Administration and the Department of Information Technology to modify a system used by DSS to be more broadly useful to other departments so as to be able to better manage contracts and to be able to reduce storage costs by reducing/eliminating paper copies of agreements.

**Name of Accomplishment: Emergency Shelter Agreements**

When Initiated: 2007

Current Status: Ongoing

Description: Providing legal advice, legal research, drafting legislation, resolution and agreements for the County to enter into Agreements with various municipalities and/or private educational institutions whereby the municipality or institution will provide a facility to be used as a shelter during a disaster or emergency situation that requires people to leave their homes and the County will provide shelter equipment and supplies to be used at the shelter.

**Name of Accomplishment: Emergency Radio System**

When Initiated: 2003

Current Status: Ongoing

Description: Provided legal advice and counsel, research and drafting services, including drafting of necessary legislation, A&C resolutions and agreements to facilitate the maintenance of a county-wide emergency radio system. Ongoing tasks include drafting of additional agreements, including agreements for the distribution of the radio equipment to municipalities and an ongoing maintenance agreement.

**Name of Accomplishment: Affordable Housing**

When Initiated: 1990s

Current Status: Ongoing

Description: Providing legal advice, drafting negotiation services and legislation in connection with the following projects:

Ossining Affordable condos to be located at 135-139 Main Street, in the City of Ossining;  
Clinton Place Affordable Housing located at 41-47 Clinton Place in the City of New Rochelle, including rental housing (construction) for homeless persons with disabilities;  
Housing at 126 Valley Street, Village of Sleepy Hollow;  
Housing at 422 Warburton Avenue in the Village of Hastings-on-Hudson;  
James Varick Homes located at 445 South 10<sup>th</sup> Avenue in the City of Mount Vernon;  
Fox Island Affordable Housing Project in the Village of Port Chester;  
Assistance with NYS Affordable Housing Corp. grant applications and contracts;  
Assisting the Planning Department in addressing certain affordable housing issues in various municipalities;  
Pines at Narragansett, Village of Ossining;  
29 Westchester Avenue, Town of Pound Ridge;  
Fellowship Hall, Town of Bedford;  
L&M Equities project at 330 Riverdale Avenue in Yonkers;  
Riverview II at 47 Riverdale Avenue in Yonkers;  
Proposed affordable housing project at 37 Wildwood Avenue;  
Existing College Arms Affordable rental housing, located at 100 College Avenue in the Village of Sleepy Hollow, to be rehabilitated;  
Academy Place Affordable Housing located at the northeast corner of Academy Place and State Street in the Village of Ossining;  
102 Ringgold Street, City of Peekskill;  
Round Top, Route 9A;  
Tarrytown Road, Town of Greenburgh;  
Supportive Housing Grants (for DSS), including new homes for Vets, permanent transitional rental housing for homeless persons with disabilities who have served in the armed forces located at 157 Bruce Avenue, Yonkers; and  
Fairview Manhattan Park Apartments Affordable Housing (HIF to construct infrastructure improvements) located at 90 and 100 Manhattan Avenue and 33 Oak Street in the Town of Greenburgh.

**Name of Accomplishment: Quarry Heights**

When Initiated: 1990s

Current Status: Ongoing

Description: Providing legal assistance in connection with the County's initiative, with the cooperation of the Town of North Castle and the Town/Village of Harrison, to undertake the construction of sewer lines and appurtenances necessary to provide public sanitary sewer service to the Quarry Heights area located in the Town of North Castle, including all the necessary legislation and IMAs with North Castle and Harrison.

**Name of Accomplishment: Austin Avenue Yonkers**

When Initiated:

Current Status: Ongoing

Description: Provide legal counsel in connection with the attempted resolution of issues raised with respect to the Supplemental PILOT and back rent related to the Austin Avenue Site.

**Name of Accomplishment: Trailer and Equipment Licenses**

When Initiated: 2007

Current Status: Completed

Description: Provided legal advice, legal research, drafted legislation, resolution and agreements for the County to enter into Agreements with various municipalities and/or volunteer fire and ambulance agencies to use and operate trailers to assist the County's emergency response efforts by providing deployment and support services during a disaster.

**Name of Accomplishment: Emergency Shelter Agreements**

When Initiated: 2007

Current Status: Completed

Description: Provided legal advice, legal research, drafted legislation, resolution and agreements for the County to enter into Agreements with various municipalities and/or private educational institutions whereby the municipality or institution will provide a facility to be used as a shelter during a disaster or emergency situation that requires people to leave their homes and the County will provide shelter equipment and supplies to be used at the shelter.

**Name of Accomplishment: Special Needs Registry**

When Initiated: 2008

Current Status: Ongoing

Description: Providing legal advice and counsel, research and drafting services, including drafting of registry which is a registry of persons who need assistance during evacuations and sheltering because of physical or mental handicaps.

**Name of Accomplishment: Fire Training License Agreements**

When Initiated: 2008

Current Status: Ongoing

Description: Providing legal advice, legal research, drafting resolution and agreements for the County to enter into License Agreements with several municipalities for satellite emergency training facilities in order to conduct classes for fire and emergency training for fire departments and other personnel that provide emergency services within Westchester County.

**Name of Accomplishment: Firing Range Agreements**

When Initiated: 2008

Current Status: Ongoing

Description: Providing legal advice, legal research, drafted legislation, resolution and agreements for the County to enter into Intermunicipal Agreements in order that the Municipality may utilize the Firing Range by sending their public safety employees to the Firing Range for firearms training, subject to availability

**Name of Accomplishment: Transfer of Property to the NYS Thruway Authority Austin Avenue Yonkers**

When Initiated: 2007 (1985)

Current Status: Ongoing

Description: Prepared legislation to authorize sale to the NYS Thruway Authority of a parcel of County owned property along the Thruway, which was passed by the BOL on October 22, 2007. The project is currently pending receipt of a signed letter agreement from the NYS Thruway Authority.

**Name of Accomplishment: County Water District Agreement with NYCDEP**

When Initiated: 2007

Current Status: Ongoing

Description: Assist the Department of Environmental Facilities in negotiating with the New York City Department of Environmental Protection ("DEP") to ensure a supply of post UV treated water to County Water Districts.

**Name of Accomplishment: County Water District Miscellaneous Projects**

When Initiated: 2007

Current Status: Ongoing

Description: Assist the Department of Environmental Facilities in preparing legislation to authorize bonding for 2 Water District No. 3 projects; Prepare permit agreement for the proposed drift tunnel under the penitentiary; and Prepare permit agreement for work to be done on DEP's out-fall pipe located at the Kensico Dam.

**Name of Accomplishment: Peekskill: Corporate Drive Property Conveyance**

When Initiated: 2007

Current Status: Ongoing

Description: Provided legal assistance in connection with authorizing the sale of the 9 Corporate Drive parcel to the City of Peekskill. The site, formerly a landfill, will be remediated by Peekskill and subsequently developed. The deed was filed October 2008.

**Name of Accomplishment: Watershed / East of Hudson**

When Initiated: 2007

Current Status: Ongoing

Description: Assist the Department of Environmental Facilities by conducting a review of potential County liabilities in connection with potential disbursement of East of Hudson funds for proposed municipal water quality projects. Developed a draft IMA to reduce County exposure to risk; and provided legal assistance in connection with the County's provision of East of Hudson ("EOH") Grant Funds to various municipalities for certain approved water shed projects, including preparation of legislation and agreements.

**Name of Accomplishment: Colonial Greenway Trailway/Flandreau Parcel**

When Initiated: 2008

Current Status: Complete

Description: Assisted Planning in preparation of legislation, bonding and related IMA with New Rochelle for the creation of Flandreau Park, as well as certain aspects of the Colonial Greenway Trailway. .

**Name of Accomplishment: Department of Health Delegation Agreement**

When Initiated: 2008

Current Status: Complete

Description: Assisted the Department of Health in the revision of the delegation Agreement with NYCDEP for subsurface sewage treatment systems. Reviewed the proposed agreement to address the issuance of waivers or variances from standards imposed by County and NYC regs, particularly to address exceptional circumstances such as maybe found in the focus areas.

**Name of Accomplishment: Revisions to Wick's Law**

When Initiated: 2008

Current Status: Ongoing

Description: Provided legal advice and counsel to DPW staff in connection with the implementation of the changes in Wick's Law.

**Name of Accomplishment: Gateway Building.**

When Initiated: 2007

Current Status: Ongoing

Description: Provided legal advice and counsel to WCC in connection with the construction of the County's first LEEDs certified building.

**Name of Accomplishment: RiverWalk at Mariandale & Crawbuckie**

When Initiated: 2008

Current Status: Ongoing

Description: Provided legal advice and counsel, research and drafting services, including drafting of necessary legislation, A&C resolutions and agreements to facilitate the acquisition of an easement on property owned by the Dominican Sisters of the Sick Poor, located in the Village of Ossining. This acquisition will become an integral part of RiverWalk.

**Name of Accomplishment: E911 IMA Legislation**

When Initiated: 2008

Current Status: Ongoing

Description: Worked with the Departments of Information Technology and Emergency Services to update the IMA for the Enhanced 911 Service program to add certain provisions relating to "60 Control" services. Also prepared legislation and A&C resolution to renew IMAs for an additional five year term.

**Name of Accomplishment: Sewer District Modifications**

When Initiated: 2008

Current Status: Ongoing

Description: Worked with the Department of Environmental Facilities to prepare necessary

legislation to authorize the modification of various sewer districts throughout the County.

**Name of Accomplishment: Food Bank Farm at Woodfield Cottage**

When Initiated: 2008

Current Status: Ongoing

Description:

Provided legal advice and counsel, research and drafting services, including drafting of a license agreement to permit Food Bank of Westchester to direct the preparation and cultivation of an organic, sustainable garden in a designated area on the grounds of the Woodfield Secure Detention Center for the purpose of growing and harvesting vegetables and fruits which will be donated to the Food Bank for Westchester to distribute to hungry Westchester residents through area food pantries, soup kitchens, shelters, Kids Cafes and residential programs while working closely with Woodfield staff to teach organic horticultural skills to the Black Belt Level Woodfield residents.

**Name of Accomplishment: Eliminating Brokers for Finding Shelter for Clients.**

When Initiated: 2008

Current Status: Complete

Description: Provided legal advice and counsel, research and drafting services, including drafting a memo advising DSS as to whether DSS could develop a system where landlords would list available apartments with DSS so that they could directly refer clients to suitable housing in the community in order to achieve cost saving and provide more efficient services to clients. Prepared a memo advising DSS that DSS can eliminate the use of brokers to find shelter for clients in order to save on the costs of brokers' fees provided that clients are able to obtain suitable housing using DSS's proposed new system. Law also advised DSS that there may be cases where landlords have exclusive right-to-rent agreements with brokers and consequently will not be able to list available apartments directly with DSS. Therefore, Law recommended that DSS get a written representation that the landlord does not have an exclusive arrangement with a broker.

**Name of Accomplishment: Taylor Lane Landfill**

When Initiated: 2008

Current Status: Ongoing

Description: Provided legal advice and counsel, research and drafting services in connection with issuing a permit to the Village of Mamaroneck to have leachate from its Taylor Lane Landfill discharged to the Mamaroneck Waste Water Treatment Plant.

**Name of Accomplishment: Solid Waste Commission Matters**

When Initiated: 2004

Current Status: Ongoing

Description: Provide continuing legal counsel to the Commission with respect to the implementation of the Westchester Solid Waste Licensing Law regarding implementation of the law, and its application to local trades and businesses. Providing additional on-going assistance to the Commission, including legal research and opinions, attendance at all Commission meetings, as well as drafting services, such as assisting with the preparation of proposed legislation and preparation of contracts.

**Name of Accomplishment: County Bonds**

When Initiated: N/A

Current Status: Ongoing

Description: Providing legal advice and drafting services to the Budget Department in connection with the preparation of an estimated one hundred (100) plus Bond Acts by year end, including associated legislation, to finance various County capital projects to and provide legal services for the 2008 County Fall General Obligations sale.

**Name of Accomplishment: Other Financings**

When Initiated: N/A

Current Status: Ongoing

Description: Provide continuing legal counsel to the Department of Finance in various financing arrangements, including private placement of Bond Anticipation Notes, the sale of County bonds to the New York State Environmental Facilities Corporation.

**Name of Accomplishment: Agreements with local municipalities for collection of cash bail through the use of credit cards.**

When Initiated: 2005

Current Status: Ongoing

Description: Provided legal advice to the Dept. of Correction and drafted contract documents with local municipalities for the collection of cash bail through the use of credit cards. The agreements with the local municipalities will result in a cost savings to the County by allowing the County to release more individuals held on bail at the local municipalities in a more timely fashion, thereby reducing the cost of transporting and housing these individuals at the County Jail.

**Name of Accomplishment: Implementation of Criminal Background Disclosure for all Contractors, Consultants, Licensees and Lessees.**

When Initiated: 2008

Current Status: Completed

Description: Prepared and implemented Executive Order 1-2008, which provides that contractors, consultants, licensees, lessees and all “persons subject to disclosure” that provide work or services to the County, or are present on County property are required to disclose their misdemeanor or felony criminal background. The Executive Order became effective on April 7, 2008. The Executive Order ensures that background inquiries to determine the suitability of individuals to perform any work or services for the County or be on County property are performed to assist the County in promoting the safety and security of County employees and the general public, the security of facilities and data and will protect vulnerable populations including seniors and the infirm that are served by the County.

**Name of Accomplishment: Assistance and Implementation of Electronic Fund Transfer Program (“Vendor Direct”)**

When Initiated: 2008

Current Status: Ongoing

Description: Law is working with Finance and other departments to implement Vendor Direct Program language and provide notice in all contracts, bids, etc.

**Name of Accomplishment: Yonkers Recreation Projects (Pelton and Fleming Parks)**

When Initiated: September 2008

Status: Ongoing

Description: Law is working with Parks to draft an IMA with the City of Yonkers as well as subsequent bonding legislation for capital project RYON4 (Yonkers Recreation Projects) which will be used to create ball fields in Pelton and Fleming Fields in Yonkers and a skatepark to be located at the Murray Ice Rink parking lot in Yonkers for \$7.25 million dollars.

**Name of Accomplishment: Hudson RiverWalk**

When Initiated: 2006

Current Status: Ongoing

Description: Provided legal advice and counsel, research and drafting services, including drafting of necessary legislation and agreements with property owners and the Village of Tarrytown for the acquisition of property rights to permit the County's construction of a section of the RiverWalk Trailway within the Village of Tarrytown.

**Name of Accomplishment: Preservation of Hemlock Hills Farmstead.**

When Initiated: 2007

Current Status: Ongoing

Description: Provided legal advice and prepared legislation and drafted agreements with the Towns of Cortlandt and Yorktown and the owner of approximately 118 acres of farmland located within the Towns to acquire a conservation easement from the property owner to preserve the property as agricultural lands in perpetuity. The acquisition of this conservation easement, not yet closed, shall be made pursuant to an agreement with the State of New York under the New York State Farmland Implementation Grant Program.

**Name of Accomplishment: Hilltop Hanover Farm**

When Initiated: 2008

Current Status: Ongoing

Description: Provided legal advice and counsel, research and drafting services, including drafting of necessary A&C resolutions and agreements to permit various organizations to utilize space at the farm in order to establish public environmental education programs. Provided advice on issues related to Wool Works, Hilltop Honey and Winery licenses.

**Name of Accomplishment: Legacy Projects**

When Initiated: 2008

Current Status: Ongoing

Description: Providing legal advice in connection with the Legacy Program whereby local municipalities operate and maintain new ball fields to be constructed by the County: Memorial Stadium rehabilitation in Mount Vernon. Responsible for drafting the necessary Intermunicipal Agreements and authorizing legislation to implement these projects.

**Name of Accomplishment: Alternative Non-secure Detention**

When Initiated: 2007

Current Status: Ongoing

Description: Draft Legislation, Board of Acquisition and Contract resolutions and negotiate and draft Agreements with providers of non-secure detention for use by the County when its'



primary non-secure detention provider (Leake & Watts) has reached full capacity.

**Name of Accomplishment: Consolidated Edison Electric Rate Case.**

When Initiated: 2007 in Case 07-E-0523

Current Status: Completed

Description: Represented interests of County, its residents and businesses in proceedings before the NYS Public Service Commission as they relate to Con Edison's recently concluded Electric Rate Case. Successfully opposed Con Edison's proposed electric delivery rate increase of over 30%. Due to efforts of the County and other parties this rate increase was substantially reduced. This is the first fully litigated Con Edison rate case in over 10 years.

**Name of Accomplishment: Consolidated Edison Steam Case.**

When Initiated: 2007 in Case 07-E-1315

Current Status: Completed

Description: Represented interests of County, its residents and businesses in proceedings before the NYS Public Service Commission as they relate to Con Edison's recently concluded Steam Case. Even though the Steam System does not serve Westchester County, various costs of the system are charged to the Electric System, which results in additional costs to the residents and businesses of the County. Though unable to convince Commission to change the allocation of costs during this proceeding, the Commission ordered Consolidated Edison to review how costs are allocated between the Steam and Electric Systems and provide that information to the Commission.

**Name of Accomplishment: Consolidated Edison Electric Rate Case.**

When Initiated: 2008 in Case 08-E-0539

Current Status: Ongoing

Description: Represented interests of County, its residents and businesses in proceedings before the NYS Public Service Commission as they relate to Con Edison's ongoing Electric Rate Case. Submitted testimony and sponsored witnesses in opposition to proposed rate increase. Hearing just concluded. Briefs to be filed.

## **Litigation Bureau**

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**Name of Accomplishment: Office of Professional Responsibility**

When Initiated: 2004

Current Status: Fully operational, 10 matters investigated in 2007

Description: In 2004, the Department of Public Safety created the Office of Professional Responsibility ("OPR"). This office was created to enhance the ability of the County to conduct investigations into alleged wrongdoing by County employees of either a criminal or administrative nature. In 2008, in order to increase awareness of the Office of Professional Responsibility, the Finance Department, in conjunction with the Department of Public Safety and the Law Department, created the WATCH hotline. This is a 24/7 hotline that can be utilized by County employees to report fraud, waste, abuse of misconduct. The caller has the option to identify him/herself or remain anonymous. As soon as a complaint is documented in the WATCH hotline, it is electronically forwarded to a designated representative of the Office of Professional Responsibility and the Law Department. The complaint is reviewed and, based upon the nature of the complaint, an appropriate course of action is determined.

**Name of Accomplishment: Employee Disciplinary Proceedings**

When Initiated: Ongoing

Current Status: Approximately 80 cases were referred to the Law Department in 2008.

Description: Departments will refer a disciplinary matter over to the Law Department. The attorney assigned will evaluate the facts provided by the Department to determine if a formal hearing is warranted. Depending upon the nature or severity or frequency of the misconduct or incompetence alleged, informal discipline may be the more appropriate response. If formal disciplinary charges are drafted, the attorney assigned to the matter will investigate the allegations, prepare charges, prepare witnesses to testify at the hearing, gather documents, designate a hearing officer and present the case on behalf of the Department. In the case of a Section 75 disciplinary matter, after a hearing, the hearing officer makes a recommendation to the Commissioner, who then can adopt the recommendation or deviate from it and impose a different penalty. In the case of a binding arbitration, the arbitrator imposes the penalty, which is final and binding.

**Federal Court Cases:**

**Wali Muhammad v. City of Peekskill, et al**

When Initiated: 2006

Current Status: The case has been dismissed.

Dollars Saved: If this case had gone to trial before a jury, and the verdict was in favor of plaintiff, it is difficult to estimate the amount of the verdict as jury verdicts in civil rights cases can run from \$15,000 to well over \$100,000.00.

Description: Plaintiff, a retired NYS correction officer, originally brought a claim against ADA Jeff Chartier and the City of Peekskill, claiming civil rights violations with respect to a traffic stop and subsequent arrest on March 25, 2005. Soon after commencement of the suit against Chartier, Plaintiff's counsel signed a stipulation discontinuing the action against Chartier, with prejudice. Thereafter, Plaintiff's counsel served a second amended complaint naming the County and Jeannie Pirro, individually, claiming a failure to train ADA Chartier. The County filed a motion to dismiss the amended complaint. The motion to dismiss was granted and the case was dismissed in its entirety.

**Mark Tornello v. County of Westchester, et al**

When Initiated: 2007

Current Status: The case is closed.

Dollars Saved: It is difficult to estimate the dollars saved by the dismissal of this case. Jury verdicts for alleged civil rights violations can range from \$15,000 to well over \$100,000.00.

Description: Plaintiff commenced an action against the County of Westchester and the Harrison Police Department alleging civil rights violations including malicious prosecution. The County moved to dismiss the complaint, and the Court granted the County's motion and dismissed the case in its entirety.

**David Byrnes v. County of Westchester**

When Initiated: 2007

Current Status: This case is closed.

Dollars Saved: It is difficult to estimate the dollars saved by the withdrawal of

this case. Jury verdicts range from \$150,000 to \$500,000 plus attorneys fees in the event that plaintiff were to prevail at the time of trial.

Description: Plaintiff is a detective in the Department of Public Safety. He commenced a federal action against the County, the Deputy County Executive and the Commissioner of the Department of Public Safety alleging that the County violated his First Amendment rights when they preferred disciplinary charges against him in response to the filing of his wife's lawsuit against the County. His wife is a Senior Social Caseworker in the Department of Social Services. She was charged with misconduct in her performance as a supervisor. During the pendency of those charges, she filed a federal lawsuit alleging that she was being retaliated against for exercising her First Amendment rights when she was allegedly critical of the Department of Social Services. She was terminated as a result of the disciplinary hearing. She filed an Article 78 proceeding challenging her termination. Her petition was dismissed. Her federal lawsuit remains pending. David Byrnes withdrew his lawsuit against the County. The disciplinary charges have not yet been resolved as against David Byrnes.

### **Ted Perry v. County of Westchester**

When Initiated: 2006

Current Status: Plaintiff has filed a Notice of Appeal which is pending.

Dollars Saved: The damages, attorney's fees and back pay could have ranged from \$500,000.00 to \$750,000.00

Description: Plaintiff, a former employee in the County's Department of Parks, Recreation and Conservation sued the County pursuant to Title VII and 42 USC Section 1981. He alleged that he was subjected to a hostile work environment and that he was assigned jobs that were outside his job title (Housekeeper) and that those jobs were among the most difficult and hazardous. On May 2, 2003, Perry sustained an on the job injury while moving concrete parking bumpers at the Bronx River Parkway Reservation. Perry reported the accident on May 5, 2003. He has not worked since that day and claimed that the injury occurred when he was assigned to a job out of title. He continues to receive compensation for his on the job injury. The Court granted the County's motion for summary judgment and denied Plaintiff's request to reopen the record.

### **Terry Hughes v. Borough of Saddle River, et al**

When Initiated: 2004

Current Status: The case has been dismissed against the County; however Plaintiff has filed a motion for reconsideration.

Dollars Saved: It is difficult to estimate the dollars saved by this dismissal.

Description: Plaintiff, a former detainee at the Westchester County Department of Correction, claimed violations of his Section 1983 rights in that his asthma medication was taken from him at the time of his admission to the facility, and he was denied free telephone access to his attorney. The Magistrate Judge issued a Report recommending that the County's motion to dismiss be granted and that the case be dismissed against the County. The District Court Judge issued a decision adopting the Magistrate's recommendation in part to the extent that all claims against the County were dismissed.

### **Sofia Saenz v. Town/Village Of Harrison, New York and Barbara Egenhauser in Her Official As Westchester County New York Assistant District Attorney**

When Initiated: 2008

Current Status: The case is closed.

Dollars Saved: It is difficult to estimate the dollars saved by the dismissal of this case.

Description: Plaintiff commenced an action against an Assistant District Attorney alleging civil rights violations, including false imprisonment, after she was questioned by the ADA concerning a criminal matter. At a pre-motion conference with the Court, the County presented its arguments in support of dismissing the Complaint in its entirety. Thereafter, the parties executed a stipulation dismissing all claims against the ADA and the County, without the need for a formal motion.

**Bruce Lowery v. Steve Rosenblum, Parole Specialist, N.Y.S. Division of Parole, Booking Sgt. Marabel, Westchester County Department of Correction, Warden Vollmer, Westchester County Department of Correction**

When Initiated: 2006

Current Status: The case is closed.

Dollars Saved: Dollars saved are difficult to calculate.

Description: Plaintiff claimed that Warden Vollmer, Sergeant Marable, Westchester County Department of Correction ("WCDCR"), and Steve Rosenblum, New York State Division of Parole ("NYSDP"), violated his constitutional rights when WCDCR released him four (4) months after the expiration of his maximum New York State Parole date. The County moved to dismiss the Complaint on the basis that Plaintiff failed to state any claim against the County Defendants, as Plaintiff was being held at WCDCR pursuant to a facially valid warrant; and the individual defendants enjoyed qualified immunity. It was a NYSDP error that caused the delay in Plaintiff's release. NYSDP settled the matter without any contribution from the County and obtained a release from Plaintiff for any claims he had against the County.

**Brian K. Lattimore, v. Westchester County Medical Examiner's; Dr. Hyland; Dr. Roh; Dr. Ashar; Dr. Duong; John Friday; Halvio Paulino,**

When Initiated: 2007

Current Status: The case is closed.

Dollars Saved: Dollars saved are difficult to calculate.

Description: Plaintiff is a former Department of Laboratories and Research Autopsy Assistant who had been terminated from his position in or about 2003 as the result of a disciplinary proceeding for alleged misconduct. He claimed in this lawsuit that he was in fact terminated because of his race, color, and religion. The County moved to dismiss the Complaint. By decision dated April 16, 2008, the Court granted the County's motion and dismissed the complaint on the basis that all of Plaintiff's claims were time barred.

**Marie Gilles v. Guy Repicky**

When Initiated: 2005

Current Status: The case has been settled for \$30,000.00.

Dollars saved: If the case had gone to trial before a jury, and the verdict was in favor of the plaintiff, it is difficult to estimate the amount of the verdict as jury verdicts in civil rights cases can run in excess of \$100,000.00.

Description: Plaintiff commenced this action alleging that Defendant, County Police Detective Guy Repicky, violated her civil rights based upon 42 U.S.C. §1983 and the Fourth and Fourteenth Amendment. Plaintiff alleges that her civil rights were violated by Repicky's unreasonable search and seizure of her van on the Taconic State Parkway on August 11, 2004. After discovery was completed, the County moved for summary judgment, which was granted on February 15, 2006 by Judge Brieant. The Plaintiff appealed to the Second Circuit, and on

December 21, 2007, the Second Circuit vacated the District Court's Judgment dismissing the action, concluding that there were triable issues of fact. While it was the County's position that these claims were entirely without any merit, the case was settled for \$30,000.

## **State Cases**

### **Hugh O'Kane Electric Co. v. County of Westchester**

When Initiated: 2005

Current Status: The case is closed.

Dollars Saved: If the County had lost at trial, the verdict could have been approximately \$600,000.00.

Description: Plaintiff contractor claimed additional charges for electrical renovations it performed at the New Rochelle Sanitary Sewer District under a County Contract. Plaintiff's original contract award was \$1,199,629.00. Plaintiff claimed that the County caused delays and interfered with Plaintiff's portion of the project causing it to incur additional expense to complete the project. In or about December 2006, after extensive discovery, the County moved for summary judgment. Plaintiff cross-moved. In or about May 2007, the Court granted summary judgment to the County on all five causes of action. Plaintiff appealed this decision. On September 4, 2008, the Appellate Division dismissed Plaintiff's appeal and upheld the lower court's decision. Plaintiff did not file any further appeals.

### **Lexington Insurance Co. a/s/o New York Medical College v. County of Westchester**

When Initiated: 2006

Current Status: A Notice of Appeal has been filed.

Dollars Saved: If the County had lost at trial, the plaintiff could have recovered damages of approximately \$250,000.00.

Description: Plaintiff claimed that on June 29, 2005, a rain storm caused significant damage to its subrogor's property, which is located in buildings leased from the County at the Grasslands Reservation. It was alleged that the damage was the result of a defective storm drain system. Plaintiff argued that the County was responsible for the storm drain system and had failed to properly maintain and repair said system, despite having prior notice of its defective and deficient condition. Major flooding occurred to all parts of the campus. Plaintiff produced documentation showing property damage of approximately \$250,000.

After extensive discovery, the County moved for summary judgment on several grounds. The court granted summary judgment to the County on the ground that the claimant served the requisite notice of claim two (2) days late and the case was dismissed in its entirety. Plaintiff has filed a notice of appeal.

### **Rosendo Figueroa v. The County of Westchester and The Westchester County Department of Correction**

When Initiated: 2006

Current Status: The case has been settled for \$10,000.

Dollars Saved: It is difficult to estimate the dollars saved by the settlement of this case. Jury verdicts for personal injuries of an inmate under the care and custody of the County at the Department of Correction can range from \$25,000 to over \$100,000.00.

Description: Plaintiff, an inmate at the County's Department of Correction, commenced a lawsuit in Westchester County Supreme Court alleging, among other things, that after he underwent surgery to repair the ligaments and tendons in his right thumb on June 24, 2005 at the

Westchester Medical Center, he was placed in protective custody at the Jail, where he was beaten up by other inmates, in violation of his civil rights. Plaintiff alleged that he received 7-8 stitches for a 2 cm scalp laceration to his head as a result of the alleged assault while he was in protective custody. Plaintiff also alleged that he received improper medical treatment for his right thumb and that, as a result thereof, his thumb became infected and did not heal properly. The County settled this case for \$10,000.00.

**American Independent Paper v. County of Westchester**

When Initiated: 2003

Current Status: An appeal is pending.

Dollars Saved: It is difficult to determine the dollars saved.

Description: Petitioner commenced a declaratory action asking the court to find as unconstitutional the County's Solid Waste Recycling Licensing Law. The County initially was successful in dismissing the petition on the basis that it was not timely filed in accordance with Article 78 proceedings. The Appellate Division overturned the lower court's decision and the matter continued through the discovery process. In or about October 2007, a non-jury trial was conducted before Liebowitz, J., acting Supreme Court Justice. In a written opinion, the court ruled in favor of the County and dismissed the petition. Petitioner has appealed and the matter is pending before the Appellate Decision.

**Karl Thimm and Lisa Thimm v. Douglas R. Wylie and ELRAC, INC.**

**Third Party Action - Douglas R. Wylie and ELRAC, INC. v. Westchester County**

**Department Of Public Safety, Westchester County Department Of Police, P.O. Marcelo Jiminez, P.O. Anthony Morizio And P.O. James Dress**

When Initiated: 2005

Current Status: Settled, with no contribution from the County.

Dollars Saved: It is difficult to determine the dollars saved.

Description: Plaintiff in the first party action is a Westchester County Police Officer who sued a suspect for the neck and back injuries he suffered in an automobile accident, which occurred while he was attempting to detain the subject and his vehicle. The suspect then commenced a third party action against three individually-named Westchester County Police Officers, the County and the Department of Public Safety, claiming that if the Plaintiff suffered any injuries in the first action, it was due to the collective negligence of all of the police officers in their attempts to stop the suspect's vehicle. The County argued that the police officers are immune from civil liability in the exercise of their official duties when their actions do not amount to a reckless disregard for the safety of others. The County further argued that the officers actions were neither reckless nor unreasonable under the circumstances of this case. The Honorable Denis Donovan granted the County's motion for summary judgment and the main case settled with no contribution from the County.

**Roper v. County of Westchester, et. al.**

When Initiated: 2007

Current Status: In discovery

Dollars Saved: Difficult to estimate.

Description: This action originated out of an incident which occurred at the New Roc City Mall in New Rochelle on April 8, 2007, at which time a large group of teenagers gathered at the mall. The City of New Rochelle Police Department called for back-up support in order to control the crowd of teenagers. Westchester County Police, along with as many as thirteen other

jurisdictions, responded by sending police personnel to assist New Rochelle Police Officers. It is alleged that the plaintiff was assaulted by an unknown assailant with an unknown object as a result of the negligent manner in which the crowd was handled. It is further alleged that the police jurisdictions involved created a dangerous condition by inciting the crowd to violence. As a result, Plaintiff is alleged to have suffered serious head trauma. The City of New Rochelle is giving the County defense and indemnification in this matter.

**Villa v. Village of Tarrytown, et. al.**

When Initiated: 2006

Current Status: The case has been settled, with no contribution from the County.

Dollars Saved: Difficult to estimate; however the case settled for \$95,000.00 with no contribution from the County.

Description: The plaintiff is alleged to have tripped and fallen on a defect on a sidewalk in the Village of Tarrytown, after the sidewalk was redesigned and replaced by contractors hired by the Village of Tarrytown. The County was brought into the case because it was alleged that the County Department of Planning was instrumental in the design of the sidewalk. However, the County was only involved in the project as the administrator of funds for the project from the Community Development Block Grant, distributed by the Federal Government. The County maintained that its sole responsibility was to oversee the distribution of funds through the grant, but that it took no part in the design or inspection of the project. The case ultimately settled for \$95,000.00, with no contribution from the County.

**COBA v. County of Westchester, et al (Mutuals case)**

When Initiated: 2006

Current Status: The suit was withdrawn upon settlement.

Dollars Saved: If the Plaintiffs had prevailed at trial, it could have cost the County approximately \$500,000.00.

Description: By commencing this action, COBA attempted to enforce an alleged “agreement” that the Union claimed provided a sliding scale penalty to Correction Officers in order to resolve disciplinary matters that could be brought against them for violating the Department's mutual exchange policy. On January 25, 2008, the Court partially granted the County's motion for summary judgment and dismissed the Complaint to the extent it was brought on behalf of Union members who previously settled their disciplinary actions (approximately 200 members). In dismissing the suit as to those 200 members, the County saved approximately \$500,000.00. As a result of the granting of the motion, there was only one remaining Plaintiff who had not settled his disciplinary matter, former COBA President Robert DelBene. After partial summary judgment was granted, DelBene agreed to withdraw the remainder of this suit in exchange for the imposition of one day of accrued leave for the settlement of the pending disciplinary charges.

**Andrew Kenward v. Joseph Hankin, individually and in his official capacity as President of Westchester Community College, the Board of Trustees of Westchester Community College, Timothy S. Carey, in his capacity as Chairman of the Board of Trustees of Westchester Community College, Westchester Community College, and the County of Westchester**

When Initiated: 2006

Current Status: The case was settled without any monetary payment.

Dollars Saved: Dollars saved are difficult to determine.

Description: Plaintiff claimed that the use of an athletic field by the County’s invitees and by

trespassers over the last few years had (1) risen to the level of a nuisance; (2) substantially interfered with and impaired his use of his property, which abuts the field; and (3) potentially endangered his safety. Plaintiff also claimed that the County ignored his expressed concerns and that President Hankin acted maliciously and with personal animosity towards Plaintiff by intentionally refusing to take any action to address same. Finally, Plaintiff claimed that the County also ignored his complaints because the College profited from renting the field. Although the Plaintiff's claims were entirely without merit and the field had been used for athletic purposes by both the College and its invitees since the early 1970s, more than a decade before Plaintiff purchased his home in 1986, the matter was settled without any monetary payment. The College agreed to continue to maintain the following procedures that were already in place - imposing reasonable restrictions on the time and manner in which the field could be used by its invitees, security procedures that eradicated any use by non-invitees and that the College operated the field at a loss.

## **Article 78**

### **Robert J. Lee v. County of Westchester, et al**

When Initiated: 2005

Current Status: The Petition was dismissed.

Dollars Saved: If the petitioner had prevailed, it could have cost the County approximately \$540,000.00 in salary and overtime costs.

Description: This Article 78 proceeding was commenced by Petitioner, a former correction officer, challenging the County's action in removing him from the payroll subsequent to the New York State and Local Retirement System ("Retirement System") granting him disability retirement benefits pursuant to Article 15 of the New York State Retirement and Social Security Law. According to the Petition, by so removing Lee from the payroll, the County acted "arbitrarily, illegally, and unlawfully." Additionally, it was petitioner's claim that in the process of making an application on Lee's behalf for disability retirement benefits and removing him from the payroll, the County Respondents violated his due process rights. On November 30, 2007, an evidentiary hearing was held in Albany Supreme Court. Subsequently, by Decision and Order dated July 25, 2008, the Court dismissed the petition in its entirety.

### **In the Matter of the Application of Jacqueline Byrnes for a Judgment and Order Pursuant to CPLR Article 78 against Kevin P. Mahon, as Commissioner of Social Services for the County of Westchester, New York, and the County of Westchester**

When Initiated: 2008

Current Status: A Notice of Appeal has been filed.

Dollars Saved: It is difficult to estimate the fiscal savings to the County.

Description: Jacqueline Byrnes, a former Department of Social Services Supervisor of Casework, assigned to a Child Protective Services unit, was terminated from employment after being found guilty of misconduct and/or incompetence in the supervision of a probationary employee. In this Article 78 proceeding, Petitioner challenged the termination of her employment as illegal, arbitrary, capricious, and otherwise improper. Petitioner alleged that Commissioner Mahon should have recused himself from making the determination because of public comments made prior to the hearing and his review of documents during the course of the investigation. The County opposed the Petition, and the Court dismissed the Petition in its entirety.



**In the Matter of 1160 Mamaroneck Avenue Corp v. Board of Legislators of the County of Westchester**

When Initiated: 2006

Current Status: The case is closed.

Dollars Saved: Dollars saved are difficult to calculate.

Description: 1160 Mamaroneck Avenue Corp d/b/a Amodio's Garden and Flower Shop commenced an Article 78 against the Westchester County Board of Legislators seeking to annul and vacate the BOL's December 18, 2006 Resolution denying Amodio's application for inclusion in the Westchester County Agricultural District. Petitioner claimed that the Board's decision to deny its application was arbitrary and capricious and was the result of prejudice and bias by the members of the Committee on Environment and Energy. After the County submitted a Verified Answer and oral argument was held, the Court dismissed the Petition in its entirety.

**G&C Transportation, Inc. v. Westchester County Taxi & Limousine Commission**

When Initiated: 2008

Current Status: Notice of Appeal filed.

Dollars Saved: Not Applicable.

Description: Petitioner operates a taxi service in Newburgh and was fined for picking up passengers within the County of Westchester without a WCTLTC-issued permit. Following a determination and issuance of violations by ALJ Matthew Metz, Petitioner filed an Article 78 proceeding alleging that the County has no jurisdiction over livery/taxi vehicles not operating 'point-to-point' within the County. The County moved to dismiss this proceeding by motion. By Decision and Order dated September 3, 2008, Judge Cacace dismissed G&C's petition in its entirety.

**In the Matter of the Application of Level 3 Communications, LLC, v. Anthony v. DeBellis, appointed assessor for the City of Mount Vernon, City Hall, 1 Roosevelt Square, Mount Vernon, NY 10550; the Mount Vernon City Council, City Hall, 1 Roosevelt Square, Mount Vernon, NY 10550; the City of Mount Vernon, City Hall, 1 Roosevelt Square, Mount Vernon, NY 10550; the School Board of the Mount Vernon City School District, 165 North Columbus Avenue, Mount Vernon, NY 10553; the Mount Vernon City School District, 165 North Columbus Avenue, Mount Vernon, NY 10553; the Westchester County Board of Legislators, Clerk of the Board of Legislators, 800 Michaelian Office Bldg., 148 Martine Avenue, White Plains, NY 10601; the County of Westchester, Clerk of the Board of Legislators, 800 Michaelian Office Bldg., 148 Martine Avenue, White Plains, NY 10601.**

When Initiated: 2007

Current Status: A Notice of Appeal has been filed.

Dollars Saved: A tax refund from the County of a minimum of \$141,055 was denied.

Description: Petitioner sought a judgment pursuant to CPLR Article 78: (a) declaring the assessments of Petitioner's property on the 2003, 2004, and 2005 assessment rolls of Respondent City of Mount Vernon unlawful; (b) directing Respondent City Assessor to enter special franchise assessments of the New York State Board of Real Property Service ("NYSBRPS") on the City's assessment rolls; and (c) upon entry of the NYSBRPS's reduced assessment on the City's 2003, 2004, and 2005 assessment rolls, directing a refund of "no less than \$283,301, plus statutory interest" from Respondents City and City Council, a refund of "no less than \$526,883, plus statutory interest" from Respondent City School District and its Board, and a refund of "no less than \$141,055, plus statutory interest" from the County Respondents, based upon the

reduced assessment; and (d) directing Respondents to enter a reduced NYSBRPS 2006 special franchise assessment on the current 2007 tax rolls. The County moved for dismissal on the grounds that the Petition failed to state a cause of action, was barred by the statute of limitations, and that Petitioner lacked standing and subject matter jurisdiction. The Court dismissed the Petition in its entirety.

## **State Division of Human Rights**

### **Eleanor J. Turner v. County of Westchester-Saxon Woods Pool**

When Initiated: 2007

Current Status: The case has been dismissed.

Dollars Saved: It is difficult to estimate the dollars saved by this dismissal.

Description: Complainant filed a Complaint with the New York State Division of Human Rights (“SDHR”) against the County of Westchester in connection with an incident which occurred at the Saxon Woods Pool in White Plains, NY on July 9, 2007. Ms. Turner claimed that she was discriminated against on the basis of her race and color by the Parks Superintendent. After the County filed a position statement and appeared for a conference, the SDHR dismissed the case, issuing a Determination and Order After Investigation on March 14, 2008 finding that there was no probable cause to believe that the County engaged in the allegedly discriminatory conduct.

### **Joanne B. Buck v. Westchester County Department of Corrections**

When Initiated: 2007

Current Status: The case has been dismissed.

Dollars Saved: It is difficult to estimate the dollars saved by this dismissal.

Description: In this State Division of Human Rights (“SDHR”) Complaint, Complainant alleges unlawful discriminatory practices by County Respondent pursuant to Section 296 of the New York State Human Rights Law and Title VII of the Civil Rights Act of 1964 claiming that she was subjected to a hostile work environment and discriminated against on the basis of her race and gender. After the County filed a position statement and appeared for a conference, the SDHR dismissed the case, issuing a Determination and Order After Investigation on April 15, 2008 finding that there was No Probable Cause to believe that the County engaged in the allegedly discriminatory conduct.

### **John Joseph Longo, Jr. v Yonkers Public Schools, Yonkers Chamber of Commerce, Westchester County Department of Social Services**

When Initiated: 2007

Current Status: The case has been dismissed.

Dollars Saved: It is difficult to estimate the dollars saved by this dismissal.

Description: Complainant filed the a Complaint alleging an unlawful discriminatory practice pursuant to the New York State Human Rights Law and Title VII of the Civil Rights Act of 1964 in connection with his removal from a work site at the Yonkers District Office after the County learned that he was accessing pornographic material on his County issued computer. After the County filed its position statement, the SDHR dismissed the case, issuing a Determination and Order After Investigation on March 26, 2008 finding that there was No Probable Cause to believe that the County engaged in the allegedly discriminatory conduct.

**Tawfig Z. Bey v. Westchester County, Department of Corrections**

When Initiated: 2008

Current Status: The case has been dismissed.

Dollars Saved: It is difficult to estimate the dollars saved by this dismissal.

Description: Complainant, a former Correction Officer, claimed that he was discriminated against on the basis of his national origin (Moorish American National) and retaliated against for opposing discrimination allegedly in violation of the New York State Human Rights Law and Title VII of the Civil Rights Act of 1964. After the County filed a position statement, the SDHR dismissed the case, issuing a Determination and Order After Investigation on July 11, 2008 finding that there was No Probable Cause to believe that the County engaged in the allegedly discriminatory conduct.

**Avdi Bruncaj v. Westchester County Department of Parks, Recreation & Conservation**

When Initiated: 2007

Current Status: The case has been dismissed.

Dollars Saved: Difficult to estimate.

Description: Complainant filed a Complaint against the Parks Department in which he alleged that he was discriminated against because of his disability (Cerebral Palsy). He alleged that he was told to refrain from using the facilities at the Sprain Ridge Pool and was subjected to humiliation and discrimination by County employees on July 10, 2007. After the County filed its position statement, the State Division of Human Rights rendered a decision in favor of the County finding that there was no probable cause to believe that the County engaged in unlawful discriminatory practice.

**Anthony Smithson v. Westchester County, Department of Correctional Services**

When Initiated: 2006

Current Status: The case has been dismissed.

Dollars Saved: Difficult to estimate.

Description: Complainant was a Correction Officer with the Department of Correction who alleged that he was discriminated against because of his race/color. After filing the County's position statement, the State Division of Human Rights rendered a decision in favor of the County finding that there was no probable cause to believe that the County engaged in unlawful discriminatory practice.

**Miguel Silfa v. New York State, State University of New York, Westchester Community College**

When Initiated: 2008

Current Status: The case is closed.

Dollars Saved: Dollars saved are difficult to calculate.

Description: Complainant claimed that the College engaged in an unlawful discriminatory practice relating to the use of its facilities in violation of Article 15 of the Executive Law of the State of New York when it would not allow him to formally enroll in and/or graduate from a Medical Coding and Billing Program because of his national origin and disability. The College moved to dismiss on the basis that Complainant was not enrolled because he did not meet the criteria necessary for enrollment. The State Division of Human Rights rendered a decision in favor of the County finding that there was no probable cause to believe that the County engaged in unlawful discriminatory practice.

## **Linda Aldridge-Johnson v. Westchester County Department of Health**

When initiated: 2007

Current Status: The case has been dismissed

Dollars saved: Claimant's back salary and cost of reinstatement, salary going forward

Description: Complainant is a Pentecostal Christian who was employed as a Registration Clerk at the Department of Health, beginning in March of 2006. Subsequent to her termination in November 2006, she had claimed that she was subject to discrimination based on her religion by a Jehovah's Witness, who, she claimed, had influence in the decision to terminate her employment. She also claimed that she complained about disparate treatment prior to her termination and was fired in retaliation for those complaints. The State Division of Human Rights rendered a decision of no probable cause, finding that there was no evidence to support Complainant's allegation that Complainant received disparate treatment because of her creed or was retaliated against for complaining about it.

## **Miscellaneous**

### **US Open Overtime Grievance**

When Initiated: 2006

Current Status: The grievance was denied

Dollars Saved: If the grievants had prevailed, it could have cost the County approximately \$45,000.00 in additional overtime costs .

Description: In this grievance, the PBA claimed that the Department of Public Safety ("DPS") violated the Collective Bargaining Agreement ("CBA") by changing the shifts of numerous officers in order to avoid the payment of overtime when the US Open was taking place at Winged Foot Country Club in Mamaroneck. The County took the position that the reason for the shift change was not the avoidance of overtime since the US Open detail required the payment of significant overtime. Rather, the shift changes were made to ensure that there was sufficient police presence at this event and that the officers assigned would not be fatigued. Additionally, the CBA contains an exception to the prohibition against changing shifts to avoid overtime when such changes are implemented to address an emergent situation, i.e. the large crowds that were expected at the event. In an Award dated March 12, 2008, Arbitrator Selchick agreed with the County's position and denied the grievance. Had the Union prevailed, it would have cost the County an additional \$45,000.00 in overtime expenses.

### **K-Mart Item Pricing - Consumer Protection Item-pricing Violations**

Current Status: An Article 78 proceeding opposing the administrative award is pending in State Court.

Dollars Saved: Although no dollars were saved in this administrative proceeding, an award of \$1.56 million dollars was imposed upon K-Mart.

Description: On two separate occasions, two distinct K-mart franchises were issued appearance tickets for violations of the Westchester County Consumer Protection Code. Specifically, both K-Mart stores were charged with hundreds of violations of the County item-pricing statute. Under the County penalty provision, K-Mart can be liable for up to \$1,000 per violation. Therefore, K-Mart may be liable for as much as \$1.56 million. A hearing officer recommended, after a full hearing, and the County Sealer accepted the recommendation that K-Mart be fined the \$1.56 million. On April 30, 2008, K-Mart filed and served a Notice of Article 78 Petition, K-Mart seeking an order: (i) annulling and setting aside as contrary to law, and arbitrary and capricious, the determination of John P. Gaccione, the County Sealer, which

imposed a \$1.564 million fine; (ii) striking Article III, section 863.71 of the Consumer Protection Code as unconstitutional, and (iii) granting K-Mart's costs, disbursements, attorneys' fees, and interest thereon. The New York State Retail Council has also filed a motion seeking amicus curiae status. Oral argument was heard and we are waiting for Judge DiBella's decision.

### **Recovery of Medicaid Claims/Liens**

New York Social Services Law enables the County to procedurally enforce its substantive right to pursue repayment from the responsible third parties by the placement of a lien for public assistance on personal injury claims and suits against third parties to the extent of the expenditures made on the recipient's behalf. The Social Services Law also authorizes the placement of claims on estate assets for any assistance received by the decedent ten years prior to the date of death. DSS' recovery is realized when the claim of the public assistance recipient is resolved and/or when the estate is settled by the executor or administrator. In 2008, the Law Department's pursuit of these liens and/or claims resulted in the recovery of \$110,575.52.

## **Family Court Bureau**

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### **Name of Accomplishment: Westchester County Child Fatality Review Team (CFRT)**

**When Initiated:** January 1, 2006

**Current Status:** Active.

**Dollars Saved:** When a child dies in Westchester County all the relevant child agencies, including the Special Prosecutions attorneys in the DAO, the designated attorney in the CAO, DSS, relevant Law Enforcement personnel, First Responders, treatment and victim assistance agencies come together to review the circumstances of the child's death. This review often results in enhanced public awareness of potential child hazards, gaps in the responder system, the adoption of better practices with at risk families, and a continuing dialogue among all team members about the reduction of child fatalities in Westchester County. A goal of the CFRT is to institute better practices among all agencies treating at risk families and children, and to educate the public about risks for children.

**Description:** The mission of the CFRT is to improve the safety and well-being of children by changing systems that are failing to protect children. A secondary mission is to educate the public about how children die. This is accomplished through a collaborative effort by government and community based agencies. The emphasis of the CFRT is a team approach to review child fatalities, review processes and history of the family with WCDSS, to create a corrective action plan when needed, and to write all fatality reports. Westchester County is the only county in NYS to write its own fatality reports.

### **Name of Accomplishment: Integrated Youth Court (IYC)**

**When Initiated:** Planning began for the establishment of an Integrated Youth Court in March, 2007.

**Current Status:** The Family Court Bureau participated in all planning sessions. The Team members include members of the County Attorneys Office, Department of Probation, the District Attorney's Office, Legal Aid Society, an Attorney for the Child representative and the

Supervising Family Court and Criminal Court Judges. The ribbon cutting ceremony for this innovative court occurred in September 2008.

Description: One Judge, sitting as a Family Court Judge and a County Court Judge will preside over matters involving youth 16-19 years old who have both Family Court and Criminal Court involvement. It is a dispositional court, granting the Judge the authority to use all Family court dispositional alternatives in a criminal court matter.

**Name of Accomplishment: Training Initiative – DSS**

When Initiated: April, 2007

Current Status: The County conducted Mock Trial training for every DSS case worker with two years or less experience.

Description: The training was offered to continue to ensure that DSS case workers continue to understand the importance of trial testimony, to feel more comfortable testifying, and to have access to attorneys to ask questions and review trial procedures.

**Name of Accomplishment: Legislative Mandate on Educational Neglect Policy**

When Initiated: Legislation enacted in 2007 mandated that DSS work with local school districts to adopt reporting policies for educational neglect cases. The Family Court Bureau worked with DSS to draft a letter sent to all Westchester County schools in July 2008 outlining that requirement and enclosing a checklist form for identifying educational neglect. The Family Court Bureau also drafted a model policy to be sent to Westchester County schools if requested. That model policy was submitted to OCFS in August 2008.

Current Status: One school district requested DSS assistance for beginning to address educational neglect. Family Court Bureau attorneys also attended a forum for all school administrators reminding them of the legislative obligations and offered assistance

**Name of Accomplishment: Training Initiative – Local Police Departments in Westchester County**

When Initiated: January 2007

Current Status: Ongoing

Description: In an effort to have juvenile matters identified properly and treated appropriately the Family Court bureau attorneys have continued to train local police departments on proper paperwork and the unique needs for a successful Family Court prosecution. Police Departments that have participated in the training include WCDPS, New Rochelle PD and Mt. Vernon PD.

**Name of Accomplishment: Training Initiative - Westchester County DPS Academy**

When Initiated: July 2007

Current Status: Ongoing

Dollars Saved: Not applicable

Description: Juvenile matters, particularly in relation to gang activity, is being seen at a younger age. Training at the police academy focused new recruits on juvenile crime and gang related activity. Training for the new recruits also explained the differences between Family Court and Adult criminal matters. Further Police Supervisory training is ongoing to ensure that juvenile matters are handled appropriately.

**Name of Accomplishment: Westchester County Multi-Disciplinary Team (MDT)/CAC**

When Initiated: May 2004

Current Status: Active

Dollars Saved: The Westchester County MDT seeks to reduce trauma to child victims of abuse by ensuring that allegations of child sexual and/or physical abuse are investigated in a collaborative fashion. Collaborative sex abuse investigations eliminates duplication of efforts and ensures successful Family Court prosecution thereby decreasing the amount of monies expended by Westchester County for investigation and prosecution of child sex abuse matters.

Description: The Westchester County MDT is fully functioning. Members include the District Attorney's office, the County Attorney's office, local police jurisdictions and DSS. It also includes the Children's Advocacy Center, and works collaboratively with the CAC to ensure timely case reviews, case tracking and joint investigations. One Family Court attorney oversees all MDT prosecutions.

**Name of Accomplishment: Westchester County Attorney advising DSS in District Offices**

When Initiated: March 2007

Current Status: Active

Dollars Saved: Not Applicable

Description: The CAO currently provides legal services at the DSS District Offices. These services include staffing at the DO's, and lunch and learn trainings as well as monthly to quarterly meetings with senior DSS staff to review ongoing concerns. .

**Name of Accomplishment: Yonkers Board of Education Truancy Project**

When Initiated: January 2007

Current Status: Active

Dollars Saved: None

Description: The increase in gang related activities in Yonkers was identified as resulting in part from the high rate of truancy of students from Yonkers Public Schools. The CAO participated in numerous meetings with Yonkers PD, DSS, the judiciary, Probation, and Yonkers school personnel to address truancy issues, and helped draft a form to guide school personnel in calling the State Central Registry to report educational neglect. Additional attorneys have been hired to prosecute the increased educational neglect petitions that have resulted from this initiative. expected to result from the increase in calls to the State Central Registry.

**Name of Accomplishment: Order Scanning Project**

When Initiated: July 2008

Current Status: Active

Dollars Saved: Previously all of the signed orders were copied and sent to DSS. Additionally Family Court bureau attorneys would spend considerable time looking for previous court orders. This initiative will save money and time, by providing the opportunity to search for relevant court orders through the OnBase system.

Description: The Family Court proceedings generate thousands of orders a year. Many of these orders are needed by DSS to comply with federal and state audit requirements. The Family Court Bureau has scanned in all signed orders since July, 2008 and has indexed them to allow DSS and other Family Court bureau attorneys' access.