

**STATE OF MINNESOTA
OFFICE OF THE ATTORNEY GENERAL**

ANNUAL REPORT REQUIRED BY

**Minnesota Statute Section 8.15
Subdivision 4 (2016)**

Fiscal Year 2017

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INTRODUCTION

This report is intended to fulfill the requirements of Minnesota Statutes Section 8.15, Subdivision 4, for Fiscal Year 2017 (FY 2017).

The Attorney General's Office (AGO) is organized into five sections under the direction of deputy attorneys general: Civil Litigation, Regulatory Law and Professions, Government Legal Services, State Government Services and Civil Law. This report contains summaries of the services provided to state agencies and other AGO constituencies by these sections.

CIVIL LITIGATION

The Solicitor General division provides litigation services to all three branches of government. Solicitor General division attorneys provide legal representation in cases with significant constitutional or other state interests, including employment and tort claims brought against the State. The division also provides legal representation to the Public Utilities Commission (PUC). For example, the division is involved in litigating the following cases:

- ***Daniel A. Rassier & Rita Rassier v. John Sanner; Pam Jensen; Stearns County, Minnesota; Ken McDonald.*** Plaintiffs allege constitutional and state-law claims associated primarily with a 2010 search warrant and subsequent search of their property, where Jacob Wetterling was abducted. Plaintiffs allege the warrant was secured with falsehoods or omissions intended to deceive, and that they suffered harm as a result of the public search of their property and the identification of Daniel Rassier as a “person of interest” in the abduction. Specifically, Plaintiffs bring the following claims against McDonald: (1) Fourth Amendment, unlawful entry; (2) Fourth Amendment, unlawful search; (3) Fourth Amendment, unlawful destruction of property; (4) First Amendment retaliation; (5) Fourteenth Amendment, procedural due process; (6) intentional infliction of emotional distress; and (7) defamation. They also pleaded punitive damages. A motion to dismiss is pending before the United States District Court.
- ***Lisa Schroeder v. Minnesota Dep’t of Veteran Affairs.*** Plaintiff is a former state employee who alleges that she was sexually harassed by a male co-worker while employed as a care assistant at the veterans home in Fergus Falls. The complaints assert Title VII claims for gender discrimination and retaliation, as well as gender discrimination and reprisal under the Minnesota Human Rights Act, negligent retention/supervision; negligent infliction of emotional distress.
- ***Nicco Redding, Michael Dahlin, Charles Andrews, and Vaughn Yaints v. The Minnesota Department of Corrections.*** Plaintiffs are inmates at the Stillwater prison who are represented by the Disability Law Center. Plaintiffs allege they suffer from disabilities that make it difficult for them to eat meals in the dining hall. As of October 3, 2016, the prison’s “Meals to Unit” program ended. Plaintiffs assert that the failure to accommodate their disability was a violation of the Minnesota Human Rights Act. Defendant Department of Corrections was able to settle the case.
- ***Telescope Media Group v. Lindsey et al.*** Plaintiff Telescope Media Group and its founders Carl and Angel Larsen filed suit on December 6, 2016, bringing a pre-enforcement challenge to a provision of the Minnesota Human Rights Act (“MHRA”). Plaintiffs operate a wedding video production company and allege that the MHRA forces them to violate their religion by producing wedding videos of same-sex weddings. The district court granted Defendants’ motion to dismiss. Plaintiffs indicate that they plan to appeal.

- ***Bobby Earl Jefferson, Jr. v. Tom Roy, Minnesota Dep’t of Corrections.*** Plaintiff is an inmate who filed a lawsuit against the Department of Corrections alleging Eighth and Fourteenth Amendment violations stemming from the work conditions in the MinnCor welding workhouse. Plaintiff alleges that the ventilation system in the workshop was broken for an extended period of time, exposing him to an array of harmful chemicals. Plaintiff alleges he suffers from severe respiratory problems related to his time in this MinnCor workshop. The Court granted Defendants’ motion for partial dismissal in September 2017 but will permit Plaintiff to proceed on remaining claims.
- ***Ryan M. Larson v. John L. Sanner, et. al.*** Plaintiff alleges violations of his civil rights during the murder investigation of Officer Tom Decker, a police officer killed in the line of duty in Cold Spring. Plaintiff alleges that Defendants forced entry into his apartment without consent, a warrant, or exigent circumstances *and* probable cause. The Complaint alleges Fourth Amendment violations of unlawful entry, unlawful search, false arrest, and unlawful destruction of home. Plaintiff also alleges violation of his procedural due process rights.
- ***Ronaldo Ligons and Barry Michaelson v. Minnesota Dep’t of Corrections, Thomas Roy, Dr. David A. Paulson, M.D., Nanette Larson, Dr. D. Quiram, M.D., Dr. R. Hanson, M.D.*** Plaintiffs are inmates in the custody of the Minnesota Department of Corrections. Plaintiffs allege that they are candidates for medical treatment of their chronic Hepatitis C infections with newly-developed oral medications that could potentially cure their infections, and that the Department’s decision not to administer treatment at early stages of the disease is unconstitutional. The district court granted Plaintiffs leave to amend their complaint before December 4, 2017.
- ***Quint Stainbrook v. Dep’t of Public Safety.*** Plaintiffs, current and former lieutenants with the Minnesota State Patrol, alleged that they are improperly classified as non-exempt under the Fair Labor Standards Act for the purpose of being paid overtime. The case was resolved without monetary compensation.
- ***The Honorable Galen Vaa v. State of Minnesota, et al.*** Judge Vaa challenges the constitutionality of the statutory mandatory retirement age for Minnesota judges based on a number of provisions of the Minnesota Constitution. The Minnesota Court of Appeals affirmed the district court’s dismissal of all of Judge Vaa’s claims. Judge Vaa has petitioned the Minnesota Supreme Court for review.
- ***T.F. et al. v. Hennepin County, Emily Piper, et al.*** Plaintiffs are children in Hennepin County’s foster care system, and they bring a putative class action complaint challenging Hennepin County’s provision of child protection services. Plaintiffs allege Hennepin County fails to investigate abuse/neglect reports; fails to provide appropriate services; fails to provide safe and appropriate foster care placements; and fails to secure safe, permanent homes. Plaintiffs bring three causes of action against the Department of Human Services defendants: (1) Substantive Due Process (on behalf of the Special Relationship Class); (2) violations of the First, Ninth, and Fourteenth Amendments (on behalf of both classes); and (3) violations of the Adoption Assistance and Child Welfare Act (on behalf of both classes). A motion to dismiss has been filed on behalf of Commissioner Piper.

- ***Alexis Bailly Vineyard v. Mona Dohman.*** Minnesota law requires farm wineries to produce their wine with a majority of ingredients grown or produced in Minnesota. Plaintiffs, two farm wineries, challenge this requirement as unconstitutional under the Dormant Commerce Clause because it favors in-state grape growers at the expense of interstate commerce.
- ***North Dakota v. Beverly Heydinger.*** After prevailing on their constitutional challenge to Minnesota's Next Generation Energy Act, North Dakota and the other plaintiffs sought \$1.5 million in attorney fees and costs. The district court awarded \$1.3 million, and that decision is on appeal before the Eighth Circuit Court of Appeals.
- ***Harlow v. Dep't of Human Services.*** Plaintiff is a former doctor at the Minnesota Security Hospital who gave statements to media following his termination. Officials at the Department of Human Services ("DHS") then responded to media questions about the doctor's termination, and he alleges the public statements were defamatory and violated the Minnesota Data Practices Act. The Minnesota Supreme Court found that the data practices act claims failed as a matter of law, and that absolute privilege barred Plaintiff's defamation claim against the Deputy Commissioner of DHS. On remand, the district court will decide whether the remaining claim should proceed to trial.
- ***Itasca County v. Teamsters Local 320 and Minnesota State Court System, Ninth Judicial District.*** Itasca County brought this action seeking a declaration regarding its obligation to bargain with the Defendant union over grievance procedures and employment conditions for the County's probation officers. The County contends that, even though it is the public employer of the probation officers, its ability to bargain is limited because the court system has the authority to appoint the probation officers. The district court dismissed the action for lack of jurisdiction, and the Court of Appeals affirmed.
- ***Tiffini Flynn Forslund, Justina Person, Bonnie Dominguez, and Roxanne Draughn v. State of Minnesota, Mark Dayton, in his official capacity as Governor of the State of Minnesota, the Minnesota Dep't of Education, Brenda Cassellius, in her official capacity as the Commissioner of Education, St. Paul Public Schools, ISD 625, Anoka-Hennepin School District 11, Duluth Public Schools, ISD 709, West St. Paul-Mendota Heights-Eagan Area Schools, ISD 197.*** Plaintiffs are parents of Minnesota students who claim that Minnesota teacher tenure laws are unconstitutional. Plaintiffs contend that as a result of tenure and continuing contract laws Minnesota school district hire and retain ineffective teachers, and that those ineffective teachers are more highly concentrated in districts serving predominately poor and minority students. Plaintiffs allege the statutes violate the Education Clause, Equal Protection Clause, and Procedural Due Process Clause of the Minnesota Constitution. The district court dismissed the Plaintiffs' Complaint, and the Minnesota Court of Appeals affirmed the dismissal.
- ***Cook County and Robert Bless v. Robert Darling, Minnesota Dep't of Labor and Industry, and Minnesota Dep't of Administration.*** Cook County Illinois and Robert Bless brought a claim against the Minnesota Department of Labor and Industry ("DOLI"), Minnesota Department of Administration, and Robert Darling, an employee of DOLI, for damages relating to an automobile accident that occurred on September 10, 2008 in Illinois. A trial was held in September 2017, and the jury returned a verdict

finding Defendants owed no damages because the Plaintiff was the primary cause of the accident.

- ***Stoltz v. MnSCU & Dakota County Technical College.*** Plaintiff, a former employee of Dakota County Technical College (“DCTC”) in the athletics program, filed suit against Minnesota State Colleges & University System (“MnSCU”) and DCTC alleging whistleblower retaliation, as well as several statutory/breach of contract claims. In 2013, Plaintiff made a number of allegations regarding DCTC’s athletics program, which led to an extensive investigation. Earlier this year, DCTC told Plaintiff that it was not renewing his position with the school. Thereafter, Plaintiff sent an email to various DCTC and state government officials making retaliation and Title IX allegations. Plaintiff alleges that the non-renewal of his position was retaliatory and unlawful.
- ***Association for Government Accountability v. Myron Frans et al.*** Plaintiff seeks a writ of mandamus to compel the payment of legislators’ salaries at \$45,000 even absent an appropriation. On July 19, 2017, the district court dismissed the petition on standing and ripeness grounds.
- ***In re Decertification of an Exclusive Representative.*** Petitioners are homecare workers who filed a petition at Bureau of Mediation Services (“BMS”) to decertify SEIU Healthcare Minnesota as the exclusive representative. BMS dismissed the petition because Petitioners failed to demonstrate that 30% of homecare workers do not want to be represented. Petitioners appealed. The Court of Appeals granted a motion to dismiss the State of Minnesota and the Departments of Management & Budget and Human Services because they are not proper parties to the case. The case is pending against BMS.
- ***ACLU v. City of St. Anthony et al.*** Plaintiffs claim the Bureau of Criminal Apprehension (“BCA”) violated the Minnesota Government Data Practices Act by declining to release the videos obtained in their criminal investigation of the Philando Castile incident while criminal charges were pending. In the alternative, Plaintiffs argued that the Court should exercise its discretionary authority to release the videos. After the officer was acquitted in the criminal trial, the BCA released the data in dispute, and the court of appeals dismissed the case as moot. Plaintiffs are seeking Minnesota Supreme Court review of the case.
- ***Andrew Carufel, et al. v. Minnesota Dep’t of Public Safety.*** In this class action complaint, Plaintiffs allege that the Department of Public Safety unlawfully obtains real-time geolocation (GPS) data regarding Minnesota Ignition Interlock Program participants, in violation of the Minnesota Government Data Practices Act. This division has filed a motion to dismiss on behalf of the Department.
- ***State of Minnesota v. 3M Company.*** State brought an environmental lawsuit against 3M Company for natural resource damages caused by the release of perflourochemicals (“PFCs”) into the Minnesota environment. PFCs are a man-made chemical invented by 3M Company, and 3M disposed of the chemicals into Minnesota landfills and waters for decades.
- ***Claims Under The Imprisonment And Exoneration Remedies Act.*** In 2014, the Legislature created a process by which individuals who have been wrongfully convicted

can seek compensation from the State. The statute creates a two-phase process in which the claimant must first establish eligibility for compensation, and then must establish damages related to the person's wrongful conviction. After the damages phase of the proceedings, the claim is then presented to the Legislature for consideration. Division attorneys are responding on behalf of MMB to claims filed under the Act.

Some of the PUC matters for which the division provides legal assistance include the following:

- ***In the Matter of the Application of Enbridge Energy, Limited Partnership, for a Certificate of Need for the Line 3 Replacement Project in Minnesota from the North Dakota Border to the Wisconsin Border.*** On April 24, 2015, Enbridge Energy filed its Certificate of Need application and Route Permit application for its proposed Line 3 Replacement Project extending 337 miles in Minnesota from the North Dakota Border to the Wisconsin Border.
- ***In the Matter of the Petition of Northern States Power Company for Approval of its Proposed Community Solar Gardens Program.*** The Community Solar Garden statute, Minn. Stat. § 216B.1641 (2013) required Xcel Energy to file a plan to operate a Community Solar Garden ("CSG") program. The statute requires that CSG customers be able to subscribe to solar generating facilities and receive bill credits for a portion of the energy generated from the CSG.
- ***In the Matter of Xcel's 2015 Upper Midwest Resource Plan.*** On January 2, 2015, Xcel Energy filed its required Integrated Resource Plan ("IRP") filing. As part of the IRP, the Commission approved closure of Sherco I and Sherco II over a 5-8 year timespan. The new IRP will be filed later this year and will include details on the closure of these coal plants. Xcel plans to construct a new natural gas baseload plant in Becker.
- ***In the Matter of the Authority to Increase Electric Rates of Northern States Power Company.*** Xcel Energy d/b/a Northern States Power Company filed its 2015 multi-year rate increase application with the Commission. This case, which has now concluded, was the third rate case for NSP in the last 5 years.
- ***Charter Advanced Services (MN), LLC and Charter Advanced Services VIII (MN), LLC v. Beverly Heydinger, Nancy Lange, Dan Lipschultz, John Tuma, and Matthew Schuerger.*** Plaintiffs contend its telephone services are not subject to state regulation because they use Voice over IP ("VoIP") to transport customer calls. Plaintiffs seek declaratory and injunctive relief from an order of the PUC asserting jurisdiction and requiring compliance with state laws, many of which protect consumers, and include programs that serve low income and deaf and hard of hearing individuals. Plaintiffs' central contention is that federal law preempts state regulation of its telephone service. Division attorneys are defending the decision of the PUC before the Eighth Circuit Court of Appeals.

More generally, employment litigation often includes claims under the Minnesota Whistleblower statute, Family and Medical Leave Act, Fair Labor Standards, and claims of discrimination and harassment under federal and state anti-discrimination statutes. The division also provides legal

representation to the State in lawsuits involving labor issues. Tort claims against the State, its agencies and employees, typically arise in the form of personal injury and property damage lawsuits. Claims include negligence, medical malpractice, defamation, infliction of emotional distress, assault and battery, excessive use of force, and violations of federal civil rights. Examples of specific cases include: highway crash cases in which the Minnesota Department of Transportation is faulted for inadequate design, construction, or maintenance of state roadways and highways; suits against the Department of Human Rights and Department of Corrections for deaths or injuries occurring in institutions they operate; and personal injury claims against multiple state agencies related to sidewalk maintenance and snow removal practices or other accidents.

REGULATORY LAW AND PROFESSIONS

TAX LITIGATION

The Tax Litigation division provides legal representation to the Minnesota Department of Revenue (DOR) in the Minnesota Tax Court and at the Minnesota Supreme Court, as well as the state and federal district courts and federal bankruptcy court. In FY 2017, the division helped DOR secure nearly \$11 million in tax revenue and saved the State more than \$50 million in refund claims. The division handles all tax types, including multimillion dollar corporate franchise tax claims and a high volume of complex sales and use tax cases. The division also provides legal representation and assistance to DOR and to other state agencies filing claims in bankruptcy court. Lawyers in the division also review and respond to dozens of foreclosure proceedings, quiet title actions, and other cases involving State interests.

SIGNIFICANT RESOLVED AND PENDING TAX LITIGATION & BANKRUPTCY CASES:

- Commissioner Valuations of Natural Gas Pipeline, Utility and Railroad Companies. Defending assessments by the Commissioner of Revenue in cases brought by several natural gas pipeline, utility, and railroad companies. The companies generally seek refunds of millions of dollars in property taxes paid to the State and county authorities, arguing that the market value of the properties is overstated. Division lawyers obtained tax court rulings in FY 2017 finding no external obsolescence in a valuation of a natural gas pipeline and dismissing a number of other cases on jurisdictional grounds.
- Individual Income Tax. Minnesota Supreme Court affirmed \$591,000 tax court judgment on individual income assessment.
- Individual Income Tax. Obtained ruling from Minnesota Supreme Court that casualty loss deduction arising out of water damage to home must be supported by competent appraisal consistent with federal treasury regulations.
- Sales and Use Tax, Personal Liability. Obtained ruling from the Minnesota Supreme Court that corporate officer was personally liable for corporation's unpaid sales and use tax.
- Sales/Use Tax, Indirect Audits. Obtained more than \$700,000 in judgments in cases challenging indirect audits of bars and restaurants. Currently defending several additional claims arising out of audits of bars and restaurants.
- Individual income tax, residency. Successfully tried two individual income tax assessments based on residency.
- Individual income tax, gambling. Obtained determination after trial in Tax Court that individual was not engaged in gambling as a trade or profession.
- Tobacco Tax. Obtained favorable settlement in \$47 million refund claim brought by tobacco company, challenging tobacco tax statute on constitutional grounds.

- Corporate Franchise Tax. The Department of Revenue entered into a settlement requiring Appellants to pay \$4,984,469 to the State in two cases based on the dividends received deduction for distributions made by a captive real estate investment trust.
- Individual Income Tax. In an individual income tax case with an assessment amount of \$625,960.87 concerning a home health care provider, obtained a stipulation of judgment for the full amount.
- Legend Drug Use Tax. Provided legal representation in statutory and constitutional challenge to Legend Drug Use Tax.
- Corporate Franchise Tax. Provided legal representation in several tax court cases concerning the computation of the Minnesota research and development credit.
- Tobacco Tax. Provided legal representation in statutory and constitutional challenge to tobacco taxation. The taxpayer seeks \$1.7 million in refunds.
- Bad debt deduction (sales and use tax). Defended assessment determining that the taxpayer is ineligible to deduct the bad debt owed to a financing source that offers taxpayer's customers credit on a credit card branded with the taxpayer's name and logo.
- Bankruptcy (chapter 11). Represented Minnesota Department of Natural Resources with respect to lease assumption, sale, and post-sale issues in complex Chapter 11 bankruptcy of iron mining and processing company.
- Tax Protestors. Obtained several favorable decisions in federal district court and Minnesota Tax Court rejecting claims of tax protestors that their incomes were not subject to Minnesota income tax.

OCCUPATIONAL LICENSING

The Occupational Licensing division provides legal representation to the state's health licensing boards and the Health Professional Services Program, including representing the boards at board meetings and disciplinary conferences and in contested cases at the Office of Administrative Hearings. The division provides legal representation to the Boards in matters in the district and appellate courts.

Some investigations for FY 2017 included:

- A nurse who prescribed dangerous amounts, and combinations, of controlled substances to patients without accurately assessing patients or implementing appropriate safeguards.
- A physician who prescribed large amounts of opioids to patients without following up on biological screens to ensure medications were being used as prescribed and not diverted.
- A dentist who failed to keep records of controlled substances that were dispensed at his clinic.
- A physician who diverted and used controlled substances while at work.
- A pharmacist who operated a hormone therapy clinic out of his pharmacy, where he improperly evaluated and treated patients without a medical license.

- Seven veterinarians who improperly prescribed medication and engaged in illegal drug compounding practices.
- A social worker who failed to meet recordkeeping standards in diagnostic assessments and engaged in billing fraud.
- A chiropractor who recruited individuals to participate in staged automobile accidents and to receive treatment at the chiropractor's office in exchange for cash payments.
- A dentist and dental assistant who failed to follow proper infection control practices in their delivery of mobile dental services to patients in long-term care facilities.
- A therapist who engaged in an intimate relationship with her client who committed suicide after the therapist ended the relationship.

During FY 2017, the division provided legal representation to the boards in various contested case proceedings before the Office of Administrative Hearings including matters involving professional misconduct, sexual misconduct, billing fraud, and mental health/chemical dependency.

In addition to contested cases before the Office of Administrative Hearings, the division provided legal representation to the boards' disciplinary committees in matters involving licensees' failure to comply with the Medical Practice Act and resulting disciplinary actions, noncompliance with existing disciplinary orders warranting further discipline, temporary suspensions, orders for mental and physical examinations, and the board's review of ALJ reports and recommendations resulting from contested case proceedings. For example, the division regularly provided legal representation to the boards where licensees failed to remain chemical free as required by their disciplinary orders or where the boards sought to temporarily suspend a license.

The division also provided legal representation to the boards in Minnesota district court and before the Minnesota Court of Appeals. For example, the appellate court affirmed the Board of Psychology's decision to suspend the license of a psychologist who engaged in a sexual relationship with a former client.

The division provides legal representation to the Health Professionals Services Program, which is the health boards' diversion program for health care providers diagnosed with mental illness or chemical dependency. The program establishes practice restrictions, monitoring requirements, and sets boundaries for impaired physicians, nurses, pharmacists, dentists, and other participating health care practitioners.

ENVIRONMENTAL & NATURAL RESOURCES

Attorneys in the Environmental & Natural Resources division (E&NRD) provide legal representation to various state agencies including the Minnesota Pollution Control Agency (MPCA), Minnesota Department of Natural Resources (DNR), Minnesota Department of Agriculture (MDA), Environmental Quality Board (EQB), Board of Water and Soil Resources (BWSR) and the Board of Animal Health (BAH).

E&NRD attorneys provide legal representation in matters arising out of the agencies' and boards' enforcement programs. The division provides legal representation to the agencies and boards in the state and federal district and appellate courts and at the Office of Administrative Hearings. The E&NRD attorneys also defend the agencies and boards in state and federal district, appellate and administrative courts when parties bring actions challenging their programs or actions.

The E&NRD's work for the agencies and boards during FY 2017 included:

- Obtained a settlement for MPCA of a federal/state case against a major industrial source, resulting in \$500,000 in civil penalties for the state and restitution for natural resource damages. In a related matter, a settlement resulted in agreement by the source to take action to control air emissions and included a \$485,000 civil penalty paid to the state to resolve ongoing air pollution violations.
- Prevailed in a federal lawsuit brought by the American Petroleum Institute and others against the Commissioners of MPCA, MDA, the Minnesota Department of Commerce and the Director of Weights and Measures seeking to have the state's biodiesel mandate statute declared preempted by federal law. The federal district court found that the Minnesota biodiesel mandate does not conflict with, and is not preempted by, the federal renewable fuel standard.
- Provided legal representation to the MPCA at the Minnesota Court of Appeals and obtained a favorable ruling that upheld the MPCA's issuance of a permit governing seven Metro-area wastewater plants.
- Obtained a judgment for over \$900,000 in cleanup costs, civil penalties, and attorney fees and successfully defended it through appeal at the Minnesota Court of Appeals to recover costs incurred in removing abandoned waste from a site in northern Minnesota.
- Provided legal representation to the MPCA in complex, multi-forum litigation involving a metal shredding facility and obtained a settlement under which the shredder agreed to pay a civil penalty of \$1,000,000 to the MPCA, \$600,000 to the City of Minneapolis for community health projects, \$500,000 in attorney fees, and also to repay the MPCA's monitoring costs for a total settlement of \$2.5 million. The shredder also agreed to move its shredder from Minneapolis to another site.
- Provided legal representation to the MPCA in a multiparty action to permanently relocate treatment tanks to treat chromium pollution in the bedrock at a historic plating site in Minneapolis.
- Provided legal representation to the MPCA in an action to enforce the straight pipe law in a cluster of related cases, permanently removing the source of ground and surface water contamination.
- Provided legal representation to the MDA in district court litigation (and resulting appeal to the Minnesota Court of Appeals) regarding constitutional challenges to the MDA's statutory right to inspect dairy farms for purposes of ensuring compliance with Minnesota food safety statutes and regulations.

- Provided legal representation to the MPCA and the DNR, as co-trustees for Minnesota, in various negotiations undertaken with other federal and Tribal trustees, seeking to settle Natural Resource Damages resulting from releases of hazardous substances pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, including one negotiated settlement in the amount of \$8.2 million.
- Provided legal representation to the MPCA in negotiating a Schedule of Compliance, requiring a regulated party to undertake investigation and contingent remedial actions to remediate perfluorochemical, or PFC, contamination in stormwater, groundwater and surface water.
- Provided legal representation to the MPCA (and resulting appeal to the Minnesota Court of Appeals) in responding to a Petition brought by local governmental units seeking a new hearing at OAH to challenge certain aspects of water quality standards adopted by the MPCA in 2014 (and approved by the EPA in 2015) to reduce “eutrophication” in Minnesota’s rivers and streams.
- Provided legal representation to the MPCA in intervention to federal district court proceeding challenging the EPA’s approval of water quality standards adopted by the MPCA in 2014 (and approved by the EPA in 2015) to reduce “eutrophication” in Minnesota’s rivers and streams.
- Provided legal representation to the DNR in an action to recover the fire suppression costs the State incurred after a forest fire set thousands of acres ablaze on state land.
- Provided legal representation to the MDA and the BAH, including challenges to state food-licensing laws, food-safety violations, food-borne illness outbreaks, dairy sales, and companion and livestock animal regulation and licensing.

REAL ESTATE:

- Provide legal representation to the Department of Administration, Land Exchange Board, BWSR, DNR, MPCA, Department of Revenue, and the Department of Transportation on various real estate matters, including leasing matters, restrictive covenants, easements, quiet-title actions, land acquisitions, title opinions and commitments, deed and easement reviews.
- Provide legal advice and drafting assistance to the MPCA, the DNR and BWSR on various real estate acquisition, title, and land use matters, including ownership of submerged lands, tax forfeitures, easements (including easements for wetland and habitat protection and wetland banking), probate proceedings, trusts, life estates, adverse possession, bankruptcy, boundary agreements, indemnification, deed restrictions, land registration, quiet title, road vacation, condemnation, declarations, protective covenants, local government fees charged against state-owned lands, and use of state bond financed property.

GOVERNMENT LEGAL SERVICES

ADMINISTRATIVE LAW DIVISION

The Administrative Law division provides legal representation to the Departments of Administration, Commerce, Employment and Economic Development, Minnesota Management and Budget, Labor and Industry, and the Minnesota Housing Finance Agency, the Iron Range Resources and Rehabilitation Board, Minnesota State Board of Investment, Minnesota executive branch officials, and many other boards, agencies, councils, and commissions. The division also provides legal representation to the Minnesota State Colleges and Universities System and other state agencies in contract, lease, and other transactional matters. The division's work during fiscal year 2017 included:

BOARDS AND COUNCILS

- Division staff provided legal representation to boards or complaint committees at board meetings and in contested-case proceedings when boards pursued action against licensees or unlicensed individuals who should have been licensed. Boards that the division provided legal representation to include: Accountancy; Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience, and Interior Design; Barbers; Cosmetologist Examiners; Peace Officers Standards and Training; School Administrators; and Teaching. The division also provides legal representation to the Crime Victims Reparations Board in distributing funds to claimants affected by crimes, the Campaign Finance and Public Disclosure Board in enforcing lobbyist and campaign finance laws, and a variety of other state councils, commissions, ombudspersons, and other small boards. During the last fiscal year, division staff also provided legal representation to the Board of Teaching in ongoing litigation. Examples of the division's work in the last fiscal year include:
 - Provided legal representation to the Board of Teaching in a contested licensing case concerning an applicant who was denied a substitute-teaching license on the basis of a prior course of unethical conduct as an attorney that led the Minnesota Supreme Court to suspend his law license. The applicant defaulted on the administrative hearing but then appealed the Board's decision to the court of appeals, which affirmed the Board's decision.
 - Provided legal representation to the Board of Teaching in a contested licensing case concerning a renewal applicant who materially misrepresented the circumstances surrounding a conviction for driving while impaired on her license-renewal application.
 - Provided legal representation to the Crime Victims Reparations Board in a contested case concerning a claimant who sought compensation for an alleged assault but failed to cooperate fully with law enforcement and had testified at the assailant's trial that he did not recall being assaulted.
 - Provided legal representation to the Crime Victims Reparations Board in a contested case concerning a claimant whose son was shot and killed during an incident in which he was attempting to rob the eventual shooter at gunpoint.

BONDS AND INVESTMENTS

- Division staff provided legal representation to MMB with respect to bond issuance and refunding by MMB of more than \$900 million in general obligation, trunk highway bonds, appropriation and revenue bonds.
- Division staff provided legal representation to the Minnesota State Board of Investment (MSBI) on various investments and investment-management agreements. Examples of the division's work in the last fiscal year include:
 - Reviewing and negotiating more than 22 alternative investments totaling about \$2.75 billion made by the MSBI with resource, real estate, private equity, and mezzanine asset managers.
- Division staff provided legal representation to the Office of Higher Education (OHE) with respect to bond issuance and refunding by OHE of approximately \$185 million in student loan revenue bonds.
- Division staff provided legal representation to the Minnesota Housing Finance Agency with respect to bond issuance of over \$850 million in revenue and state supported bonds.

OTHER LITIGATION AND REPRESENTATION

- Division staff provided legal representation to the Department of Natural Resources in a complex, multi-billion dollar bankruptcy proceeding in Delaware regarding the Department's mineral leases with the debtors.
- Division staff provided legal representation to the state and Department of Management and Budget in litigation seeking to declare that the state owed compensation to smokers whose claims may have been released as part of the state's tobacco settlement.
- Division staff continued to defend a challenge to the constitutionality of the state's law that generally bans automatically dialed and announced telephone calls. The district court and Eighth Circuit both affirmed the constitutionality of the law.
- Since 2013, division staff have defended state officials with respect to approximately forty lawsuits against law enforcement officers and other local government employees alleging these individuals improperly accessed the plaintiffs' drivers' license information in violation of the Drivers Privacy Protection Act ("DPPA"). Some plaintiffs also named the current and former Commissioners of the Department of Public Safety ("DPS") and the Commissioner of the Department of Natural Resources as defendants, alleging they were liable for failure to prevent the unauthorized viewing of their information. Collectively, the actions alleged several thousand improper accesses, for which the plaintiffs sought statutory damages of at least \$2,500 per access. The Commissioners have been dismissed from all of the actions. Many of the dismissals were appealed. In each case in which the Eighth Circuit has ruled, it has affirmed the dismissals. Several other cases remain pending in the Eighth Circuit and the district court against the officers involved. To date, no court has held that the Commissioners can be held liable under the DPPA.

- Division staff continued to defend the Commerce and Labor Commissioners in a challenge to administration of the Minnesota Workers Compensation Reinsurance Fund.
- Division staff successfully provided legal representation to the Secretary of State in a variety of cases, including a challenge to the constitutionality of the law concerning the election of the state's presidential electors; a series of cases challenging the state law that governs voter eligibility; and cases alleging ballot errors related to candidates seeking federal and state offices.
- Division staff provided legal representation to the Municipal Boundary Adjustment Unit of the Office of Administrative Hearings on three appeals from the unit's decisions pertaining to municipal annexations.

SCHOOLS & HIGHER EDUCATION DIVISION

The Schools & Higher Education Division provides legal representation to the State's complex and varied educational system, handling most student and some faculty and staff-related matters for the Minnesota State Colleges and Universities (Minnesota State) system of 37 separate colleges and universities. In addition to providing legal representation to the numerous Minnesota State campuses, the division also provides legal representation to the Minnesota Department of Education, the Office of Higher Education, the Perpich Center for Arts Education, the State Academies and the State pension boards.

MINNESOTA STATE COLLEGES AND UNIVERSITIES (MINNESOTA STATE)

In FY 2017, the division provided legal representation to Minnesota State in a variety of lawsuits initiated primarily by students and some by former staff against Minnesota State. The division provided legal advice on a wide range of issues, including student disciplinary proceedings, employment law matters and various additional issues that arise in the context of educating, counseling and housing students. Examples of the division's work for Minnesota State during the last year include:

- Student Appeals of Disciplinary Expulsions and Suspensions. Provided legal representation to Minnesota State at the Office of Administrative Hearings against claims by students that the campus should not have expelled or suspended them for violations of Student Codes of Conduct.
- Provided legal representation to Minnesota State in federal court against claims brought by female members of a sports team that was eliminated as a result of an effort in cost-containment and program realignment.
- U.S. Department of Education, Office for Civil Rights (OCR), the U.S. Equal Employment Opportunities Commission (EEOC) and the Minnesota Department of Human Rights (MDHR). Provided legal advice and obtained several dismissals and findings of no discrimination of numerous complaints against various Minnesota State employees and Minnesota State campuses concerning alleged unlawful discrimination and retaliation.

- Student Challenges to Sexual Assault Discipline. Provided legal representation to Minnesota State in administrative and federal court proceedings against claims that sexual assault disciplinary procedures discriminate against males.

MINNESOTA DEPARTMENT OF EDUCATION (MDE)

The division provides legal representation to MDE, which administers and oversees the State's K-12 education programs, including charter school issues, state and federal special education programs, student maltreatment, data practices, student expulsion, the child and adult food care program, and state financial audit issues. The division's legal work for MDE included:

- Educational Adequacy Lawsuit. Seven parents (as guardian and next friend of minor children) and a non-profit corporation brought a putative class action alleging that the education the children receive in Minneapolis and St. Paul public schools is inadequate on the basis of race and socioeconomic status. The Complaint named the State of Minnesota, Governor Dayton, Minnesota Senate, Minnesota House, Senate President, Speaker of the House, Minnesota Department of Education, and its Commissioner. Three charter schools intervened in the case. Plaintiffs allege violations of the Education, Equal Protection and Due Process clauses of the Minnesota Constitution and a claim under the Minnesota Human Rights Act. This case is currently being litigated at the district and appellate courts.
- Special Education. Providing legal representation in defending MDE's determinations regarding local school districts' implementation of special education laws.

OFFICE OF HIGHER EDUCATION (OHE)

- The division provides OHE with legal representation on a variety of issues that arise from OHE's administration of federal and state higher education programs, including (1) student loan and financial aid programs; (2) registration of private and out-of-state public higher education institutions that provide programs in Minnesota; and (3) licensure of private business, trade and correspondence schools. After a Hennepin County judge found that Minnesota School of Business and Globe University committed fraud in the operation of their criminal justice programs, the Minnesota Office of Higher Education ("OHE") issued an order revoking the schools' registration and degree and name approval in accordance with Minn. Stat. § 136A.685. The schools appealed and requested a contested case hearing at the Office of Administrative Hearings ("OAH"). This Office represented OHE at OAH. After the parties exchanged discovery, the schools withdrew their appeal. The schools subsequently closed after completing a 1-year teach-out that had been authorized by OHE.

STATE PENSION BOARDS

Division staff provided the State's pension boards - Minnesota State Retirement System (MSRS), Public Employees Retirement Association (PERA) and Teachers Retirement

Association (TRA) - with legal representation on a variety of issues arising from the boards' administration of the state pension funds.

COMMERCE

- Division staff provided legal representation to the Department of Commerce in numerous contested cases involving license applications, disciplinary actions against licensees, and enforcement actions against unlicensed individuals or businesses engaged in activities requiring licensure. Cases involved businesses and individuals in a variety of industries, including mortgage originators, real estate appraisers, real estate salespersons, collections agencies, securities salespersons, insurance salespersons, bail bond agents, and notaries public. Staff also provided legal representation in challenges to rulemaking processes and in litigation involving distribution of insurance funds, liquidation proceedings, insurers' coverage obligations, and a challenge to the constitutionality of an enforcement proceeding. Other division work included providing legal representation to the Real Estate Education, Research and Recovery Fund in enforcement and district court proceedings. Examples of the division's work in the last fiscal year include:
 - Continuing to defend Commerce in district and appellate courts in a still-pending lawsuit challenging the constitutionality of the state's unclaimed-property laws. The court of appeals upheld the constitutionality of the law, reversing the district court.
 - Providing legal representation to Commerce in a lawsuit filed by multiple health insurances plans that sought reimbursement of approximately \$35 million in assessments collected by the Minnesota Comprehensive Health Association. The lawsuit was ultimately dismissed after new legislation created a reinsurance program and the funds were used to offset health insurance premium increases.
 - Providing legal representation to Commerce in a liquidation proceeding and challenge to the denial of a \$483,735 claim filed by the federal government.
 - Providing legal representation to Commerce in an enforcement action against an unlicensed lender that fraudulently issued 178 motor vehicle title loans to Minnesota residents with interest rates as high as 247.65%. The enforcement proceeding seeks a significant civil penalty and an order voiding each loan.
 - Providing legal representation to Commerce in relation to its decision to deny a national bank's application to acquire 49% of the shares of a nearby state-chartered bank.
 - Providing legal representation to Commerce in an enforcement action that resulted in the revocation of a bail bondsman's license when he failed to disclose numerous criminal convictions to Commerce and engaged in multiple acts demonstrating he was untrustworthy or unqualified to continue to hold a license.
 - Providing legal representation to Commerce in a lawsuit filed against it by an auto-glass company industry participant.

- Division staff also provided legal representation related to the Department of Commerce's telecommunications, energy, and energy-environmental-review responsibilities and its Weights and Measures division. Staff provided legal representation to the Department before the Minnesota Public Utilities Commission (PUC) and the Office of Administrative Hearings in numerous matters. Litigation and other work by division staff related to requests to build, site, or route large electricity generators; distributed antenna systems and small-cell telecommunications networks; small solar garden electricity generation; gas and crude-oil pipelines; a natural gas service-area dispute; gas-pipeline infrastructure riders, and valuation of energy generation pollutants. Staff further handled litigation related to telecommunications mergers, operator-assisted services, Alternative Form of Regulation (AFOR) plans, rural call completion, and discrimination by rural cooperatives toward members producing distributed generation. Examples of the division's work in the last fiscal year include:
 - Provided legal representation to Commerce in several general rate proceedings before the PUC involving public utilities like Xcel Energy, Minnesota Energy Resources Corporation, Otter Tail Power, and Minnesota Power that sought in aggregate millions of dollars in rate increases from ratepayers, including residential consumers.
 - Provided legal representation to Commerce in expedited litigation regarding a CenturyLink petition for deregulation in rural communities.
 - Provided legal representation to Commerce in several complex proceedings related to Enbridge Energy's request to build and route a new oil pipeline through environmentally sensitive areas of the state.
 - Provided legal representation to Commerce in complex litigation related to Minnesota Energy Resources Corporation's request to expand its gas pipelines and border stations related to the Rochester Destination Medical Center development.

CONTRACTS AND INTELLECTUAL PROPERTY

- Division staff provided legal representation to numerous state agencies on issues related to state governmental operations; assisted in drafting and revising leases, licenses and contracts; and advised on intellectual property matters, including registering trademarks on behalf of state agencies.
- Division staff provided legal representation to Minnesota State Colleges and Universities regarding a variety of real estate construction, contract, intellectual property, condemnation, and licensing matters. Examples of division staff's work include:
 - Reviewing agreements for purchases, rentals, and data-sharing for compliance with state and federal law.
 - Assisting universities with contracts related to general banking and depository services.
 - Advising various campuses on software license agreements.

- Reviewing clinical-affiliation agreements.

LABOR AND CODE ENFORCEMENT

- Division staff provided legal representation to the Department of Labor and Industry's Construction Codes and Licensing Division and its Contractor Recovery Fund, handling numerous disciplinary and enforcement actions against residential building contractors, remodelers, roofers, electricians, plumbers, and unlicensed individuals and companies engaging in these professions. Examples of division staff's work in the last fiscal year include:
 - Continuing to provide legal representation to the Minnesota Plumbing Board to defend new rules it promulgated that substantially revised and updated the Minnesota Plumbing Code.
 - Providing legal representation to the Department of Labor and Industry in an enforcement action against a licensee whose business practices were premised on offering a deceptive and illusory rebate and making false representations concerning its affiliation with government agencies and public utility companies. The licensee ultimately agreed to revocation of its license and a \$7,500 civil penalty.

STATE AGENCIES DIVISION

The Health, Labor, Corrections, and Administrative Law Division provides legal representation to the Departments of Corrections, Employment and Economic Development, Health, Human Rights, Labor and Industry, Veterans Affairs, the Client Security Board, and the Bureau of Mediation Services. Work of the division included:

DEPARTMENT OF CORRECTIONS

Provided a range of legal services to the Department of Corrections (DOC) and state correctional facilities. Provided legal representation to defend the DOC in a high volume of lawsuits brought by inmates involving complex constitutional issues in state and federal court. Current and recent litigation includes:

- ***Jackson v. Gutzmer, et al.*** An inmate sued several DOC corrections officers, alleging that they used excessive force when he was placed on a restraint board after he created a disturbance. The federal district court dismissed most of the officers from the lawsuit, but refused to dismiss the supervising officer who authorized the offender's placement on the restraint board. The division provided legal representation to the officer in his appeal to the Eighth Circuit Court of Appeals. The Eighth Circuit reversed the district court and held that the officer was entitled to qualified immunity from the inmate's claim for monetary damages.
- ***Defense of Prison Employees/Policies.*** Division staff frequently defend prison employees and DOC policies against challenges under the federal Civil Rights Act

(section 1983). For instance, cases litigated in FY 2017 involved the rights of inmates regarding mail, medical care, and access to court, as well as claims involving correctional officers' use of force to keep inmates and prisons secure. Division staff also defended the DOC in cases inmates brought under the Americans with Disabilities Act and the Religious Land Use and Institutionalized Persons Act.

- **DOC Sentence Administration.** Division staff provided legal representation before the Minnesota Supreme Court to defend the DOC's method of calculating the length of a sex offender's conditional release period in a habeas corpus appeal. The supreme court ruled in the DOC's favor, holding that the offender was not entitled to a reduction in the length of his conditional release period. *State, ex rel. Duncan v. Roy*, 887 N.W.2d 271 (Minn. 2016). Division staff also defended the DOC at the Minnesota Court of Appeals in habeas corpus cases brought by offenders who challenged the DOC's calculation of their sentence expiration dates, release/parole conditions, revocation of release, and imposition of prison discipline.

DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT

Provided legal representation to the Minnesota Department of Employment and Economic Development and participated in bankruptcy proceedings to protect the State's interest in collecting unemployment benefits overpayments. In the past fiscal year, cases brought by this Office prevented the discharge in bankruptcy of more than \$1 million of improperly received benefits.

DEPARTMENT OF HEALTH

The Minnesota Department of Health (MDH) has authority to regulate and oversee a number of different subject areas, including infectious diseases, food-borne illness outbreaks, health care facilities, environmental health hazards, health maintenance organizations (HMOs), medical cannabis, hospitals, nursing homes, and certain health professionals. Provided legal representation to MDH concerning its regulatory responsibilities and in litigation and administrative enforcement actions.

Specific examples of the division's legal work for MDH in the past fiscal year include the following:

- **Infectious Disease.** Division staff petitioned the probate court on MDH's behalf to seek an order allowing law enforcement to hold a person suspected of having infectious Tuberculosis in an airborne isolation unit at a hospital. The court granted MDH's petition after an emergency evidentiary hearing.
- **Assisted Living.** The division provided legal representation to MDH when MDH revoked the license of a Housing With Services facility. The court of appeals determined that MDH had established that vulnerable adults had been subjected to serious health and safety risks and upheld MDH's decision. The Minnesota Supreme Court denied further review. *See In the matter of Unity Health Care*, No. A16-682, 2017 WL 745740 (Minn. Ct. App. Feb. 27), *rev. denied* (Minn. May 16, 2017).

- **Asbestos Contamination.** Division staff provided legal representation to MDH in actions to revoke licenses of companies that fail to comply with the Minnesota Asbestos Abatement Act and Rules.
- **Food, Beverage, and Lodging Establishments.** The division provided legal representation to MDH in enforcement proceedings against restaurants, hotels, and manufactured home parks.
- **Body Art Technicians and Body Art Establishments.** The division provided legal representation to MDH in administrative proceedings involving minimum licensure requirements. For instance, when MDH denied a body art license, the applicant challenged the constitutionality of the licensing statute. The division provided legal representation to MDH in defending the statute and the Minnesota Court of Appeals determined that it is constitutional. *See In the matter of Griepentrog*, 888 N.W.2d 478 (Minn. Ct. App. 2016).
- **Vital Records.** The Hennepin County District Court denied a petitioner's request to change his date of birth on his birth record, where the petitioner argued that he had experienced mental illness that caused him to identify as younger than his actual, chronological age. The division provided legal representation to the MDH arguing that Minnesota's Vital Records Act allows for correction of inaccurate birth records, but does not allow amendment of accurate ones. The Minnesota Court of Appeals issued an opinion that agreed with MDH's position.

A significant amount of work in the past fiscal year involved providing legal defense of MDH's determinations that individuals or health care facilities violated the Vulnerable Adults Act by neglecting, abusing, or financially exploiting vulnerable adults. In addition, the division provided legal defense of MDH decisions not to allow certain disqualified individuals to work in direct contact with patients or residents of health care facilities or health care service organizations (such as home care agencies). Examples of these types of cases include:

- MDH found that a health care worker maltreated a nursing home resident by improperly moving the resident, dropping her, and causing her to be hospitalized with fractured ribs. The division provided legal representation to MDH in an administrative enforcement proceeding where MDH prevailed.
- In one case, the division provided legal representation to MDH where a health care worker was disqualified based on a past theft conviction. MDH refused to set aside the disqualification, which would have allowed her to work with vulnerable adults. The Minnesota Court of Appeals affirmed MDH's decision in *Kaba v. Comm'r of Health*. In another case, MDH disqualified a health care worker from working with vulnerable adults after a finding that there was a preponderance of the evidence to believe he committed an act that meets the definition of gross misdemeanor stalking. The division provided legal representation to MDH staff in administrative proceeding where MDH staff prevailed.

DEPARTMENT OF HUMAN RIGHTS

Provided legal representation to the Department of Human Rights (MDHR) following MDHR's determination that there is probable cause to believe that illegal discriminatory conduct has occurred. Division staff provided legal representation to MDHR in federal court, state court, and at the Office of Administrative Hearings in a variety of matters, including a lawsuit alleging that a hospital discriminated against a disabled individual when providing services to his spouse and child and a lawsuit alleging that an employer fired an employee on the basis of her marital status.

DEPARTMENT OF LABOR AND INDUSTRY

Provided legal representation to the Minnesota Department of Labor and Industry (DLI). Engaged in litigation to enforce occupational safety and health standards, including cases regarding workplace fatalities and employers' retaliation against employees for raising workplace safety issues. Engaged in litigation to enforce Minnesota labor laws, such as the Fair Labor Standards Act, including prevailing wage and child labor laws. Examples of recent litigation include:

- ***OSHA Enforcement Action regarding Silica Dust.*** DLI staff issued citations to an employer that produced silica dust when performing maintenance work. DLI staff found that the employer had a deficient respirator selection program and a lack of training related to the hazards of silica dust exposure. The employer contested the citations, arguing that its program was sufficient and it had trained employees. The division provided legal representation at an administrative enforcement proceeding, before the OSHA Review Board, and at the Minnesota Court of Appeals, where DLI prevailed.
- ***Labor Standards Enforcement Action regarding Overtime Wages.*** DLI staff cited an employer that utilized a split-day schedule and failed to pay overtime. The division is providing legal representation in an administrative enforcement proceeding to collect overtime wages for employees. In related federal court litigation, the division provided legal representation when the employer sued DLI in an effort to stop DLI's enforcement action. The federal district court granted DLI's motion to dismiss. The employer recently appealed to the Eighth Circuit.

DEPARTMENT OF VETERANS AFFAIRS

Provided legal representation to the Minnesota Department of Veterans Affairs (MDVA). For instance, the division provided legal representation to the MDVA in discharge proceedings after the MDVA concluded that a resident was a danger to himself or others, or Veterans Homes were unable to meet the medical needs of a resident.

MINNESOTA CLIENT SECURITY BOARD

The Client Security Fund reimburses clients who suffer economic loss because of the dishonest conduct of their attorneys. Brought collection actions on behalf of the Minnesota Client Security Board to collect and preserve debt obligations to the Fund.

TRANSPORTATION DIVISION

The Transportation division provides legal representation to the Minnesota Department of Transportation (MnDOT). A large part of the division's work involves eminent domain litigation. In addition, the division provides legal advice to MnDOT and other state agencies involved in construction projects and provides legal representation to the State when contractors, subcontractors, or third parties sue the State on construction-related matters. The division also protects taxpayers by filing claims on behalf of MnDOT against entities that perform defective work, fail to pay employees legally mandated wages, or otherwise fail to comply with contractual requirements.

The division advises client agencies on the legal ramifications of proposed activities and development projects, assists State agencies in real estate transactions and evaluates and attempts to resolve claims before litigation arises.

In FY 2017, the division:

- Provided legal representation to MnDOT in litigation related to proceedings subsequent, eminent domain actions and appeals arising in connection with hundreds of properties that are acquired for roadways and other transportation projects such as light rail and bridge replacement. The division also defended MnDOT against claims that its projects have resulted in inverse takings and provided legal assistance in responding to quiet title and torrens proceedings, and challenges to statutory conveyances of land.
- Provided legal representation to and advised MnDOT, Minnesota State Colleges and Universities, the Minnesota Departments of Administration, Natural Resources, and Labor and Industry in litigation, settlement negotiations, arbitration, and mediation of construction and other claims against the agencies.
- Appeared before the Minnesota Supreme Court and Court of Appeals in appeals challenging the award of attorney fees, findings of public purpose and necessity sufficient for granting a petition for condemnation, and the denial of petitions for writs of mandamus in actions requesting initiation of condemnation proceedings.
- Provided legal representation to MnDOT in its statutory prevailing wage enforcement responsibilities..
- Provided legal representation to the Minnesota National Guard regarding matters including contract review, solid waste permitting and inspection.
- Provided legal representation to MnDOT in district court actions challenging MnDOT's entry onto property for purpose of environmental testing and geotechnical investigations prior to project work and maintenance of MnDOT's right of way

- Provided legal representation to MnDOT and other state agencies in contested case hearings in regulatory matters addressing issues such as unpromulgated rulemaking and requests for orders directing action by a railway company.
- Advised MnDOT and its offices regarding programs such as, Aeronautics, Railroads and Waterways, State Aid, Office of Environmental Stewardship, and Office of Civil Rights.

The division's work in FY 2017 includes:

- Provided legal representation to MnDOT in an eminent domain action regarding land acquired for the green line light rail project. The landowner claimed damages in excess of \$3.2 million and the commissioners ordered \$420,000 in damages.
- Provided legal representation to MnDOT in an eminent domain action regarding MnDOT's reconstruction of Highways 59 and 60. In addition to just compensation, the landowner sought \$1.4 million for related statutory claims for minimum compensation and loss of going concern. Commissioners rejected the landowner's claim and on appeal, the district court granted summary judgment to MnDOT. Division staff worked with the landowner to resolve the action without a second appeal resulting in the landowner's withdrawal of the \$1.4 million claim.
- Defended MnDOT in an action alleging damages from a highway construction project and challenging MnDOT's use of and authority over its right of way for trunk highway purposes. The district court dismissed all claims against MnDOT and held that MnDOT has broad authority to construct and use the right of way under the terms of MnDOT's easement.
- Provided legal representation to MnDOT in an eminent domain action regarding MnDOT's reconstruction of the interchange at I-494 and TH 169. Landowners claimed damages in excess of \$2.5 million. After landowners appealed the commissioner's award to district court, division staff facilitated settlement in pre-trial mediation that resulted in landowner's dismissal of its demand for a jury trial and a final award of approximately one-half its original \$2.5 million claim.
- Successfully defended MnDOT in an appeal from a district court order granting fees to a non-party attorney who provided legal services to landowner before commencement of litigation.
- Successfully defended MnDOT in an appeal from a district court order dismissing landowner's claim and granting MnDOT summary judgement in a mandamus action where the landowner sought condemnation alleging MnDOT's reconstruction project on TH 10 converting a signalized intersection to a grade separated interchange deprived landowner of reasonably convenient and suitable access. The Court of Appeals affirmed the district court, and the Supreme Court denied landowner's petition for review.

STATE GOVERNMENT SERVICES

TRIALS AND APPEALS

The Trials and Appeals division provides prosecutorial assistance to county attorneys and local law enforcement agencies in prosecuting serious crimes and in the civil commitment of dangerous sex offenders. In addition, the division provides training for police officers and prosecutors.

The division assists counties in the prosecution of serious crimes in trial courts throughout Minnesota when requested by a county attorney. Representative work during FY 2017 included:

- Convicted Miguel Vasquez of first-degree murder for the murder of his wife in Brown County. After shooting her, Vasquez cut the victim's head off and burned her body. The court sentenced him to life in prison without parole.
- Convicted Craig Williams of second-degree murder in the murder of his former wife, Nancy Williams, in Todd County. The court sentenced him to serve 150 months in prison.
- Convicted Luis Rosa of second-degree murder for the murder of his 16-year-old sister in Mille Lacs County. The court sentenced him to serve 261 months in prison.
- Convicted Kirk Bigby of second-degree murder for the murder of Markus Roberts in Cook County. The court sentenced him to serve 150 months in prison.
- Convicted Michael Cimmarusti of second-degree murder for the murder of Rose Downwind, his girlfriend and the mother of his three children, in Beltrami County. The court sentenced him to serve 420 months in prison.
- Convicted Brandon Rossbach and Christopher Davis of aiding an offender in the murder of Rose Downwind in Beltrami County. Rossbach and Christopher Davis helped Cimmarusti take Downwind's body out into the woods and partially burn and bury it. The court sentenced Rossbach to serve 201 months in prison, and Davis to serve 123 months.
- Conducted grand jury proceedings and obtained first-degree murder indictments.
- Provided legal representation to the State in post-conviction challenges to murder convictions.
- Provided continuing legal advice and assistance to the Bureau of Criminal Apprehension, the Child Mortality Review Board, the Violent Crime Coordinating Council, the Advisory Committee on the Rules of Criminal Procedure, Criminal Justice and Juvenile Information Advisory Group, the Restitution Working Group, the Stop it Now Advisory

Committee, the Minnesota Peace Officer Standards and Training Board, and the Minnesota Board of Law Examiners.

Division attorneys also provide assistance to county attorneys in civil commitment hearings involving dangerous sexual predators, upon the request of the county attorney. When a county attorney decides to proceed with a civil commitment petition, division attorneys assist the county attorney in preparation of the commitment petition, handling of pre-trial matters, and the handling of the commitment hearing and any appeal. The division also provides legal assistance to the Advisory Committee on the Rules of Civil Commitment.

The division's attorneys assist counties in numerous cases in which civilly committed sexual predators filed motions to vacate their commitments. As the population of committed sexual predators increases, the number of petitions for habeas corpus and such motions from the Department of Human Services' regional treatment centers continues to grow.

The division's attorneys also assist the Department of Corrections in administrative hearings required by the Community Notification Act when a registered sex offender challenges the Department of Corrections' assessment of the offender's level of danger upon release from incarceration. Each month, the division handles numerous such cases, which affect the type of notice given to the community in which the sex offender will be released. The division also advises the BCA in registration issues and DNA collection issues, and the Department of Corrections on community notification issues.

Additionally, the division trains law enforcement officers and prosecutors throughout the state on such topics as: sex offender commitments, predatory offender registration, stalking and harassment laws, child exploitation laws, narcotics investigations, search and seizure, suspect interrogation, evidence, working with grand juries, trial advocacy, and appeals.

The division provides assistance to county attorneys in felony appeals. The cases handled in FY 2017 involved, among other crimes, murder, sexual assault, drug distribution and manufacturing, child sexual abuse and felony assault. Examples include:

- **Dikken v. State.** Minnesota Supreme Court affirmed two convictions for first-degree murder in Yellow Medicine County. The defendant broke into the home of his former girlfriend and shot her and her boyfriend while they were sleeping.
- **State v. Nelson.** Minnesota Supreme Court affirmed the conviction of first-degree murder and the sentence of life in prison without parole in Le Sueur County. After deliberating about it for some time, Nelson took a rifle from the gun case and shot his sleeping father in the head.
- **Jones v. State.** Minnesota Supreme Court affirmed the conviction of first-degree murder for the rape and murder of Linda Jensen in Sherburne County.
- **Swaney v. State.** Minnesota Supreme Court affirmed the conviction of first-degree murder for the murder of Carrie Nelson while she was working at the Blue Mound State Park in Rock County.

- ***Fairbanks v. State.*** Minnesota Supreme Court affirmed the conviction of first-degree murder for the murder of Mahnomen County Deputy Chris Dewey.
- ***State v. Dorn.*** Minnesota Supreme Court affirmed the conviction for first-degree assault in Marshall County.
- ***State v. Grussing.*** Minnesota Court of Appeals affirmed the second-degree murder conviction for stabbing an acquaintance in the neck in Chippewa County.
- ***State v. Case.*** Minnesota Court of Appeals affirmed the conviction of second-degree murder for the murder of his girlfriend in Renville County.
- ***State v. Raisch.*** Minnesota Court of Appeals affirmed the conviction of second-degree murder in Pine County.
- ***State v. McGinnis.*** Minnesota Court of Appeals affirmed the convictions of second-degree murder and witness tampering in Stearns County. McGinnis shot the victim after the victim attempted to buy marijuana from him with counterfeit cash.
- ***State v. Anderson.*** Minnesota Court of Appeals affirmed convictions of attempted second-degree murder and auto theft in St. Louis County.
- ***State v. Vandell.*** Minnesota Court of Appeals affirmed the convictions of using a minor in a sexual performance and furnishing alcohol to a minor in St. Louis County.
- ***State v. Juate-Yout.*** Minnesota Court of Appeals affirmed the conviction of first-degree criminal sexual conduct for the repeated sexual assault of his daughter, starting when she was nine years of age, over a four-year period, in Stearns County.
- ***Staet v. Alejo-Rubio.*** Minnesota Court of Appeals affirmed convictions of first-degree criminal sexual conduct in Mower County. The defendant sexually abused his stepdaughter for approximately five years starting when she was just five years of age.
- ***State v. Schwartz.*** Minnesota Court of Appeals affirmed convictions of second-degree criminal sexual conduct for the sexual abuse of his adopted sister in Meeker County.
- ***State v. Onyoni.*** Minnesota Court of Appeals affirmed the conviction of third-degree criminal sexual conduct involving a 15-year old victim in Benton County.
- ***State v. Fordham.*** Minnesota Court of Appeals affirmed the third-degree criminal sexual conduct conviction involving a minor girl in Kandiyohi County.
- ***State v. Davis.*** Minnesota Court of Appeals affirmed the conviction of criminal vehicular homicide in Marshall County. While he had methamphetamine in his blood, the defendant caused a head on crash that killed Barbara Olsen.
- ***State v. Donson.*** Minnesota Court of Appeals affirmed the conviction of second-degree assault in Douglas County. Angered at his neighbors, the defendant pointed a BB gun at a young child.
- ***State v. Isensee.*** Minnesota Court of Appeals affirmed the conviction of second-degree assault for stabbing another patron during a bar fight in Koochiching County.

- ***State v. Cooper.*** Minnesota Court of Appeals affirmed convictions for drive-by shooting and second-degree assault of three victims in Stearns County.
- ***State v. Price.*** Minnesota Court of Appeals affirmed the conviction of attempted first-degree murder in Mower County. The defendant shot an acquaintance in a drive-by shooting.
- ***State v. Howard.*** Minnesota Court of Appeals affirmed the conviction of second-degree assault in Cass County.
- ***State v. Kramer.*** Minnesota Court of Appeals affirmed the conviction of second-degree assault in Steele County.
- ***State v. Salim.*** Minnesota Court of Appeals affirmed the conviction of aggravated robbery in Blue Earth County.
- ***State v. Bebeau.*** Minnesota Court of Appeals affirmed the conviction of second-degree assault for stabbing an acquaintance in Itasca County.
- ***State v. Hall.*** Minnesota Court of Appeals affirmed the conviction for stalking in Lac Qui Parle County. The defendant made repeated threatening calls to a city clerk.
- ***State v. Ellingboe.*** Minnesota Court of Appeals affirmed the conviction of assault in Yellow Medicine County.
- ***State v. Kettle.*** Minnesota Court of Appeals affirmed the conviction of second-degree assault involving a dangerous weapon in Otter Tail County. The defendant assaulted the victim over a drug debt.
- ***State v. Robbins.*** Minnesota Court of Appeals affirmed the conviction of a first-degree controlled substance crime in Lyon County.
- ***State v. Johnson.*** Minnesota Court of Appeals affirmed the conviction of a second-degree controlled substance crime in Swift County.

The division also handled federal habeas corpus petitions challenging state-court convictions for non-metro counties during FY 2017. Attorneys in the division appeared on behalf of the State on multiple habeas petitions in federal district court and three in the Eighth Circuit Court of Appeals in FY 2017. Attorneys also assisted prosecutors in responding to federal habeas petitions challenging state court convictions.

Appellate attorneys assisted prosecutors by providing legal research and preparing legal memoranda, and assisted local prosecutors with legal questions.

MEDICAID FRAUD

The Medicaid Fraud division is a federally-certified Medicaid Fraud Control Unit (MFCU) that prosecutes health care providers committing fraud in the delivery of the Medical Assistance (Medicaid) program. The Minnesota Department of Human Services administers the Medicaid program in Minnesota. The Surveillance and Integrity Review Section (SIRS) at the

Minnesota Department of Human Services is responsible for investigating fraud in Medical Assistance program. SIRS can then refer cases for prosecution.

The division prosecutes health care providers who participate in the state's Medicaid program, and who submit false claims for reimbursement. Two of those provider-types, Personal Care Assistants (PCAs) and Personal Care Provider Organizations (PCPOs), have disproportionately engaged in fraudulent billing practices. Typical schemes include billing for services not provided, billing for authorized units rather than actual units provided, billing for registered nurse (RN) services when there is no RN employed by the agency, providing group care but billing as if one-to-one care is provided, and using identities of individuals not employed by the agency, as if they are employees. Some fraud cases have a criminal neglect component because the recipient's condition is compromised due to lack of care.

Examples during the 2017 FY include:

Provider Fraud Cases

- ***State v. Ahlbeck***: Due to a prior conviction, Ahlbeck was excluded from work in the Medicaid program, yet continued to provide PCA services and submit them in her mother's name. Ahlbeck was convicted of three counts of felony theft by false representation and was found to have violated the probation terms of her prior case.
- ***States v. Bates***: Bates and his recipient signed and submitted PCA timesheets for services that were not provided and split Bates' paychecks. Bates was convicted of felony theft by false representation.
- ***State v. Kobernyk***: Kobernyk, who provided medical transportation services to Medicaid recipients, submitted claims with inflated mileage which led to higher reimbursement rates. He was convicted of felony theft by swindle.
- ***State v. Albadry***: During her ex-husband's deployment overseas, Albadry forged his signature on PCA timesheets for services allegedly provided to her, and collected almost \$45,000. Albadry was convicted of felony theft by false representation.
- ***State v. Swanson***: PCPO owner Swanson billed for PCA services that were not provided, employed PCAs who had not passed background checks, and provided PCA services without an RN on staff to supervise recipients' care. Swanson was convicted of six counts of felony theft by false representation and ordered to serve 365 days in jail.
- ***State v. Umar***: Umar claimed to provide interpreter services to recipients while he was clocked in and working at another employer. Umar pled guilty to felony theft by false representation.
- ***State v. Lightfeather***: Lightfeather was convicted of felony theft by swindle for unlawfully providing PCA services to his wife and billing for PCA services that could not have occurred because she was out of town.

- ***State v. Hayle:*** Hayle, an interpreter, billed for services when there was no underlying medical appointment for the recipient and when she was clocked in and working at another job. Hayle was convicted of felony theft by false representation.
- ***State v. Davaasumberel:*** Davaasumberel claimed to provide PCA services for several months when the recipient was out of the country and when Davaasumberel was working at another job. She was convicted of felony theft by false representation.
- ***State v. Haymon:*** Haymon was convicted of felony theft by false representation for submitting over 550 hours of PCA services that were not eligible for reimbursement because the recipient was hospitalized.

Financial Exploitation Cases

Upon request of a county attorney, division attorneys assist in prosecuting vulnerable adult abuse and neglect (including financial exploitation) in Medicaid funded facilities, and non-Medicaid board and care facilities, such as:

- ***State v. Brustuen:*** Brustuen was convicted of two counts of felony financial exploitation of a vulnerable adult and one count of felony theft by false representation. Brustuen spent tens of thousands of dollars of funds belonging to her son, a vulnerable adult, which depleted his trust and left him in debt to the Social Security Administration. She also fraudulently received Medicaid funds by submitting PCA timesheets for services she did not provide to him.
- ***State v. Sawyer:*** Sawyer, as guardian, conservator, and representative payee, misappropriated funds belonging to her disabled adult daughter. Sawyer was convicted of felony financial exploitation of a vulnerable adult.

Appeals

- ***State v. Saryee:*** The Minnesota Court of Appeals affirmed convictions of four felony counts of theft by false representation. The Minnesota Supreme Court denied further review.
- ***State v. Sokpa-Anku:*** The Minnesota Court of Appeals affirmed convictions of three felony counts of medical assistance fraud. The Minnesota Supreme Court denied further review.
- ***State v. Barnes:*** The Minnesota Court of Appeals affirmed convictions of two felony counts of theft by false representation. The Minnesota Supreme Court denied further review.

The Medicaid Fraud division also intervenes in civil lawsuits under the Minnesota False Claims Act. The Minnesota MFCU participated in 11 False Claims Act cases that resulted in recoveries paid to the General Fund between July 1, 2016, and June 30, 2017, totaling \$2,563,587.87.

PUBLIC SAFETY

The Public Safety division provides legal representation to the Minnesota Department of Public Safety (DPS) at thousands of implied consent hearings each year in which drivers contest the revocation of their driver's license due to an arrest for driving while impaired by alcohol or controlled substances. In FY 2017, the division handled district court actions the resolution of which results in approximately \$3 million in driver's license reinstatement fees owing to state government. Efforts by the division during FY 2017 to reduce deaths, injuries, and property damage on Minnesota's streets and highways included:

- Handled approximately 4,900 district court Implied Consent proceedings and associated appeals challenging the revocations of driving privileges under Minn. Stat. §§ 169A.50-.53 and Minn. Stat. § 169A.20, subd. 2.
- Defended the state against constitutional and statutory challenges to the DWI, implied consent, refusal, traffic, and other public safety laws. The issue of whether drivers may be charged with a crime for refusing to submit to chemical tests to determine their alcohol concentration continues to affect Minnesota courts. Like all states, Minnesota imposes license revocations on drivers who are arrested for DWI and asked to submit to a chemical test as part of the implied consent process, with revocations imposed regardless of whether the driver fails the chemical test or refuses to provide a sample for testing. The division is defending the state against challenges to the constitutionality of these license revocations at the Minnesota Court of Appeals and at the Minnesota Supreme Court.
- Appeared in nearly 180 district court challenges and resulting appeals to other driver's license cancellations, withdrawals, revocations, suspensions, and license plate impoundments under Minn. Stat. § 169A.60 and § 171.19.
- Provided training on DWI procedures and traffic safety laws for law enforcement officers and prosecutors throughout Minnesota.
- Published the 2017 DWI/Implied Consent Elements Handbook, which is utilized statewide by prosecutors, judges, defense attorneys and law enforcement professionals.
- Appeared in over 45 appeals to the Minnesota Court of Appeals and the Minnesota Supreme Court resulting from district court appearances involving the revocation, suspension, cancellation, or withdrawal of driving privileges.
- Provided legal representation to DPS and other boards in contested case hearings at the Office of Administrative Hearings in regulatory matters addressing matters such as the Minnesota State Patrol's request for review of approval by the Minnesota State Retirement System of a disability benefit, challenges to the DPS ignition interlock program, and challenges to license enforcement actions by the Gambling Control Board and the Board of Private Detective and Protective Agent Services.
- Defended DPS in a district court action brought by an ignition interlock distributor seeking relief including a declaratory judgment regarding the enforceability of DPS real-time reporting requirements for ignition interlock devices, temporary injunctive relief, and civil remedies under the Minnesota Government Data Practices Act.

- Appeared in Federal District Court addressing various federal claims including alleged violation of a right to travel, and claims under § 1983 and the Americans with Disabilities Act.

In FY 2017, approximately 20 percent of all driver's license revocations imposed as a result of a DWI arrest were challenged in court. Today's high challenge rate is the result of the strengthening of DWI laws by the legislature over the years, including adoption of laws allowing for: the use of implied consent revocation as the basis to impound license plates and to require installation of ignition interlock devices in a violator's car, criminal forfeiture of motor vehicles, and enhancement of subsequent criminal offenses to gross misdemeanor and felony violations. Because drivers have much at stake from an alcohol-related license revocation appearing on their driving records, they are more likely to challenge the underlying driver's license revocations in the state's district and appellate courts. The increasing complexity of our state's DWI law has resulted in a specialized DWI defense bar that vigorously challenges license revocations. Implementation of the felony DWI law, statutory increases in the length of revocation periods, and availability of ignition interlock use for repeat offenders continue to increase the division caseload. Significant changes to the DWI laws that took effect on July 1, 2017, including adoption of laws that allow for license revocation based on driver refusal to comply with the execution of a search warrant for collection of a blood or urine sample and an extension of the time to file a request for judicial review from thirty to sixty days, may increase the division workload.

The division provides legal services to DPS and its various divisions including the Minnesota State Patrol, the Minnesota Bureau of Criminal Apprehension, the State Fire Marshal's Office, the Office of Pipeline Safety, the Office of Homeland Security and Emergency Management, the Office of Traffic Safety, the Alcohol and Gambling Enforcement Division, and the DPS Driver and Vehicle Services Division.

The division also provides legal representation to state boards and commissions including the Gambling Control Board, the Minnesota Racing Commission, and the Private Detective and Protective Agent Services Board. These entities issue thousands of licenses and conduct numerous investigations each year, which may result in contested case hearings requiring legal representation from this division at the Office of Administrative Hearings, or in state district and appellate courts. The division provides legal representation to the Minnesota Racing Commission in appeals from commission licensing decisions and disciplinary action taken against horse owners, trainers, and jockeys, and has also provided legal representation to the commission at the Minnesota Court of Appeals. The division also provides legal representation to the Gambling Control Board and the Private Detective and Protective Agent Services Board in appeals from the boards' licensing decisions and disciplinary actions.

INFORMATION SERVICES AND CONSUMER

The Information Services and Consumer divisions assist consumers, businesses and other organizations who contact it for information and assists them in obtaining settlements with other parties. Through its efforts, the division often eliminates the need for costly and time-consuming litigation for all parties.

HUMAN SERVICES

The Human Services division provides litigation services and legal counsel to the Minnesota Department of Human Services (“DHS”), the state’s largest agency. Division attorneys provide legal services to DHS in the four broad areas of Health Care, Children and Family Services, Mental Health, and Licensing.

HEALTH CARE

Division attorneys in the health care area handle matters concerning Minnesota Health Care Programs (“MHCP”), continuing and long-term care, health care compliance, and benefit recovery. MHCP includes Medical Assistance and MinnesotaCare, which together cover approximately 1.2 million Minnesotans. In continuing care, division attorneys provide legal representation to DHS on matters concerning autism services, aging and adult services, disability services, medical assistance, and personal care assistance. In the compliance and recovery area, division attorneys handle health care compliance matters and recover payments for health care services from providers, responsible third-parties, and estates.

CHILDREN AND FAMILY SERVICES

Division attorneys in the children and family services area handle legal issues relating to public assistance programs, child support, and child protection matters. Public assistance programs include the Minnesota Family Investment Program, the General Assistance program, the Minnesota Supplemental Aid program, the Federal Supplemental Nutrition Assistance Program (“SNAP,” formerly called Food Stamps) and Group Residential Housing. Division attorneys provided legal representation to DHS in litigation contesting the operation of these programs. In child protection, attorneys provide legal representation to DHS in matters concerning children’s welfare, adoption, foster care, guardianship, tribal issues, and other matters.

MENTAL HEALTH

Division attorneys in the mental health area provide legal representation to DHS’s adult and children’s mental health programs, chemical dependency programs, state operated treatment facilities and forensic services, which include regional treatment centers, state operated community facilities, children’s and adolescent behavioral health centers, the Minnesota Security Hospital (“MSH”), and the Minnesota Sex Offender Program (“MSOP”). Division attorneys represent DHS’s interests in a broad spectrum of litigation including Jarvis/Price-Sheppard hearings to authorize forced neuroleptic medication and/or electroconvulsive therapy; Judicial Appeal Panel court trials involving petitions for discharge from persons civilly committed as mentally ill and dangerous, sexually dangerous persons, or sexual psychopathic personalities; Section 1983 civil rights actions in state and federal district and appellate courts; petitions for Writ of Habeas Corpus in state and federal courts; as well as providing legal advice to state-operated facilities administration and staff.

LICENSING

Division attorneys provide legal representation to the DHS Licensing division in maltreatment cases (abuse, neglect, and financial exploitation) involving personal care provider organizations and programs licensed to provide adult daycare, adult foster care, child foster care, child care, and services for mental health, developmental disabilities, and chemical health. Division attorneys appear in administrative proceedings and district and appellate courts seeking to uphold disqualifications of individuals providing services in programs licensed by DHS, respond to expungement petitions in district court to preserve judicial and administrative records for disqualification, and also appear in administrative proceedings and appellate courts to uphold licensing actions against programs licensed by DHS.

The following are some examples of specific matters handled by the division:

- ***Karsjens, et al. v. Jesson, et al.*** This is a class action whose plaintiffs include civilly committed sex offenders brought against officials of the Department of Human Services, which administers the Minnesota Sex Offender Program. The plaintiffs challenged the constitutionality of Minnesota Statutes, chapter 253D, and made various other challenges to the conditions at MSOP. The federal district court ruled that chapter 253D was unconstitutional but division attorneys obtained a reversal from the Eighth Circuit Court of Appeals. The plaintiffs sought review from the United States Supreme Court, which AGO attorneys argued against, and the Supreme Court is reviewing the plaintiffs' request for review. The district court stayed further proceedings until that issue is decided, and there remain several claims not ruled upon that were tried during the six-week trial and additional claims related to the First and Fourth Amendments that are yet to be tried in phase two of trial.
- ***Additional MSOP litigation.*** MSOP clients have filed new lawsuits since *Karsjens* in both state and federal court, which attorneys in the division defend on behalf of DHS. These lawsuits arise out of various incidents or policies at MSOP, including client assaults, property restrictions, media restrictions, searches, use of the high security area, and religious practices.
- ***Medica Health Plans v. Minnesota Department of Human Services.*** In its administration of the Medical Assistance and MinnesotaCare programs, DHS contracts with outside managed care organizations to provide health insurance for many of those covered by these DHS programs. In November 2016, Medica noticed its termination of its Medical Assistance and MinnesotaCare contract with DHS. Division attorneys are providing legal representation to DHS in a lawsuit in which Medica challenged the method by which DHS found replacement managed care organizations to cover Medica's enrollees following its contract termination.
- ***Gordon, et al. v. DHS, et al.*** Plaintiffs are recipients of the Medical Assistance program's Disability Waiver who are challenging the use of Community Residential Settings as opposed to what they allege are more integrated settings. The plaintiffs' claims are based on the Medicaid Act, the Fourteenth Amendment, the Americans with Disabilities Act, and the Rehabilitation Act. Among other things, the plaintiffs claim that

state policy and implementation by counties denies them information that would allow them to live in a setting that they believe is more integrated.

- **Judicial Appeal Panel.** Division attorneys provided legal representation to the Commissioner of DHS on numerous hearings before the SCAP on petitions from civilly committed individuals for transfer, provisional discharge, or discharge.
- **Jarvis/Price-Sheppard Hearings.** Division attorneys provided legal representation at numerous hearings to authorize medically necessary medication and/or electroconvulsive therapy for patients who lack the legal capacity to make the decision themselves.
- **Medicaid Overpayment Recovery.** Division attorneys provided legal representation to the State of Minnesota in connection with the recovery of overpayments in the Medicaid program.
- **Disqualification Matters.** Division attorneys handled disqualification proceedings.
- **Doe v. Jesson.** Division attorneys defended the DHS Commissioner in a lawsuit challenging the constitutionality of tribal notification in voluntary adoption matters involving Indian children, which was dismissed by the federal court.
- **In the Matter of the Appeal of Melissa A. Ostrom.** Division attorneys provided legal representation to DHS in connection with recurring maltreatment of a vulnerable adult by neglect and emotional abuse and subsequent disqualification of the individual that perpetrated the maltreatment, which was affirmed after a contested hearing.
- **In the Matter of the Appeal of Zenith Services.** Division attorneys provided legal representation to DHS in connection with a determination of maltreatment by neglect against the facility when a vulnerable adult left the facility unsupervised. After a ruling on a motion for summary disposition, Zenith Services withdrew its appeal.
- **In the Matter of the Appeal of Paula Cole.** Division attorneys provided legal representation to DHS in connection with a determination of serious maltreatment by physical abuse against an individual who caused head injuries to a child when she kicked a toy causing the child to fall, which was affirmed after a contested hearing.
- **Terrance J. Friend, Sr. v. Emily Johnson Piper, Commissioner of Human Services, et al.** Friend is civilly committed at the Minnesota Sex Offender Program and petitioned for a writ of habeas corpus, challenging his civil commitment. Division attorneys successfully defended the Commissioner in the trial court and again on appeal after Friend appealed.
- **In the Matter of the Civil Commitment of Mecca Bantu.** Bantu, a client at the Minnesota Sex Offender Program, petitioned for transfer, provisional discharge, and discharge from MSOP. The division provided legal representation to the Commissioner who opposed the petition and successfully moved to dismiss the petition.
- **Atkinson v. DHS.** Atkinson challenged the inclusion of settlement proceeds in determining the amount of his parental fee in the Medical Assistance program. The district court and court of appeals affirmed the Commissioner's decision to include the proceeds in DHS's calculation of Atkinson's parental fee.

- *In the Matter of the SIRS Appeal of Samia Barre.* SIRS suspended the appellant due to overbilling the Medical Assistance program. Division attorneys provided legal representation to DHS in a contested case hearing, which recommended upholding SIRS's decision. The Commissioner affirmed the suspension.

CIVIL LAW

CHARITIES

The Charities division serves a number of functions. First, it oversees and regulates charities, charitable trusts, and other nonprofits active in Minnesota pursuant to the Office's authority under statute and common law. Second, the division enforces state charitable solicitation, charitable trust, and nonprofit laws. Third, the division maintains a public registry of charities, charitable trusts, and professional fundraisers that operate in the State.

The Charities division enforces and administers laws relating to charities and other nonprofits. By statute, the Attorney General's Office also receives notice of certain private trust and probate matters filed in the district courts that affect charitable beneficiaries/interests. The division received and reviewed approximately 182 such notices last year. When necessary, the division acts to protect charitable assets and represents the interests of charitable beneficiaries that might otherwise be unable to represent themselves.

The division also receives notice of the dissolution, merger, consolidation, conversion, or transfer of all or substantially all assets of Minnesota nonprofit corporations. It received approximately 159 such notices in the last fiscal year. The division reviews these notices to ensure that charitable assets are protected during these transactions and used for the purposes for which they were solicited and held.

Additionally, the Charities division responds to complaints about nonprofits and charities, and investigates allegations of fraud, misuse of funds, and other wrongdoing by such organizations. Depending on the circumstances, these investigations can lead to formal legal action, are resolved by working with nonprofit boards to bring them into compliance with the requirements of Minnesota law, or are referred to other government officials and agencies.

The division brings suit against organizations that commit charitable solicitation fraud or otherwise violate the State's charities and nonprofit laws. Through the enforcement of laws governing nonprofit and charitable organizations, the Charities division helps combat fraudulent solicitations, deter fraud in the nonprofit sector, educate the public about charitable giving, and hold nonprofit organizations accountable for how they raise, manage, and spend charitable assets.

Minnesota law requires charitable organizations and professional fundraisers to register and file annual reports with the Attorney General's Office. In the last fiscal year, approximately \$664,781 in registration-related fees were deposited into the State's general fund. At present, the division has registered and is maintaining public files for more than 11,700 soliciting charitable organizations, more than 2,840 charitable trusts, and 396 professional fundraisers. The charitable organizations and charitable trusts that the division regulates held more than \$510 billion in assets, and had \$223 billion in total revenue the prior year. The information from these files permits the donating public to review a charitable organization's financial information,

allowing for greater transparency and more informed giving. The information is made available to the public in summary form on the “Charities” page of the Attorney General’s website regarding charities, in its entirety on the website regarding professional fundraisers, and in its entirety at the Attorney General’s Office regarding all registered organizations.

The following are examples of investigations and lawsuits brought or resolved by the Charities division during the last year:

- **Associated Community Services, Inc.** Associated Community Services, Inc. (“ACS”) has been a prominent telemarketer for 27 charities that solicited in Minnesota over the last several years. The Charities division settled a lawsuit it had brought against ACS for deceptive charitable solicitation practices. The lawsuit alleged that ACS called potential donors and passed itself off as the charity for which it was soliciting donations. Even when a call recipient refused to donate through ACS, it still allegedly sent the person a “pledge reminder” in the mail falsely claiming that they had agreed to donate and asking them to fulfill their nonexistent “pledge.” ACS further allegedly failed to make certain disclosures required by Minnesota law intended to ensure donors know they are being solicited by a fundraiser. The settlement required ACS to pay \$200,000 in restitution and civil penalties, banned it from soliciting in Minnesota for two years, and, after the ban expires, to overhaul its solicitation practices before telemarketing again in the state.
- **Firefighters Support Services.** Firefighters Support Services (“FSS”) claimed to be a charity that supported firefighters. In reality, FSS used only about 1.3% of the money donations it received for this purported charitable mission. In an alleged attempt to obscure how little of donors’ money contributions it used for a charitable purpose, FSS engaged in improper accounting practices that falsely inflated the magnitude of its charitable largesse, thereby deceiving donors about how inefficiently it used their donations. As a result of these practices, the Charities division permanently banned FSS and its principals from soliciting donations in Minnesota, under penalty of entry of a \$250,000 judgment against them if they violate this ban.
- **Dads Fundraisers, Inc.** The Charities division sued Dads Fundraisers, Inc. (“Dads”), and its owner, Michael Gerken, for engaging in fraudulent practices in connection with soliciting donations for local Minnesota high school sports teams and youth groups. Dads claimed to provide “coupon cards” to local high school sports teams and other youth groups (collectively “youth groups”) that entitled the purchaser of the card to discounts at area businesses. Members of the youth groups would sell the coupon cards in their communities to raise money to fund their activities. Dads solicited significant, upfront payments from the local businesses whose ads were included on the coupon cards, but then allegedly did not actually follow through and create the coupon cards at issue. Such alleged practices harmed local businesses because they did not receive the agreed-upon advertising from Dads despite paying for it, and denied a source of fundraising revenue for Minnesota youth groups. This lawsuit settled with Dads and Gerken agreeing to pay full restitution to their Minnesota victims, and permanently barring them from engaging in any similar solicitation or fundraising activities in the future.

- **Play Outdoors Imitative, Inc.** PLAY Outdoors Imitative, Inc. (“PLAY”), was a Minnesota nonprofit that purported to promote outdoor activities among Minnesota youth in northern Minnesota through grant-making. A Charities division investigation revealed, however, that PLAY had allegedly not made any such grants and was instead created to support a for-profit company owned by PLAY’s founders. As a result of these alleged circumstances, PLAY entered into a settlement pursuant to which it agreed to dissolve and that permanently prohibited its founders from creating or operating any new charitable organization associated with their for-profit company. PLAY subsequently dissolved in February 2017.

CIVIL

The Civil division investigates violations of and enforces State laws, including Minnesota’s laws prohibiting consumer fraud, deceptive trade practices, and false advertising. The division conducts investigations, serves investigative requests, and takes action where appropriate to stop and deter fraud in the marketplace and to protect consumers.

The following are examples of investigations and suits brought or resolved by the Civil division:

- The division settled a lawsuit against CashCall, Inc. and its affiliates WS Funding, LLC and WS Financial, LLC. The lawsuit alleged that CashCall issued loans to Minnesota consumers and charged rates of interest in excess of those allowed by Minnesota law (e.g., as high as over 340%); engaged in unlicensed lending; and falsely represented to consumers that its front-company, Western Sky Financial, LLC, was a tribal entity exempt from Minnesota law. In settlement, CashCall and its owner were banned from conducting any further business in Minnesota; and were required to cease collecting on their illegal loans, void and cancel all of the illegal loans they had issued, and correct all negative credit reporting related to the illegal loans. In addition, CashCall was required to provide a substantial monetary payment to the State in order to provide refunds to borrowers.
- The division sued Global Gateway Solutions, Inc., an unlicensed Florida debt collection company, that operated a call-center located in Jamaica. The lawsuit alleged that despite being unlicensed to collect debt in Minnesota, Global Gateway repeatedly contacted Minnesota residents and sometimes attempted to collect fake payday loan debts or “phantom debts” from them. The lawsuit further alleged that Global Gateway failed to inform Minnesota residents of their rights to seek validation of and to dispute the alleged debts, as well as engaged in illegal collection tactics such as threatening arrest, lawsuits, and having a sheriff visit their home. In settlement, Global Gateway was banned from conducting any further debt collection activities in Minnesota and was required to provide refunds to Minnesota residents.
- The division investigated National BPO, LLC, a “student loan assistance” company doing business as National Student Servicing, which used “bait and switch” tactics through which it promised borrowers that it would help get their student loans “forgiven” in exchange for payment of an up-front fee. In reality, the only services the company

provided was to enroll students into repayment or consolidation programs, which they could do themselves for free. National Student Servicing also offered these debt settlement services without first becoming registered with the Minnesota Department of Commerce as required by Minnesota law. In settlement, National Student Servicing was banned from conducting any further business in Minnesota and required to provide refunds to Minnesota residents.

- The division investigated the Western Union Company for transmitting money transfers that the company knew or reasonably should have known that the money transfer was part of a fraudulent scheme whereby its money-transfer system is being used to obtain funds from a consumer, directly or indirectly, as a result of fraud. In settlement, Western Union agreed to maintain a program to detect and prevent fraud, as well as to provide refunds to Minnesota residents who fell victim to a fraud-induced money transfer using Western Union's money-transfer system.
- In its lawsuit against the for-profit college companies Minnesota School of Business ("MSB") and Globe University ("Globe"), the Court held that MSB and Globe falsely and misleadingly represented that their criminal justice program provided the required education to become a Minnesota police officer, probation officer, or federal law enforcement officer in violation of consumer protection laws. The Court found that the schools' criminal justice program "served as a trap for the unwary" and entered an Order in favor of the State for a permanent injunction, civil penalties, costs and attorney's fees. The Order further established a restitution process for all criminal justice students who were enrolled in the program between January 1, 2009 to the present. In addition, the Minnesota Supreme Court has held that the schools violated Minnesota law by issuing loans to their students without being licensed and charging rates of interest on the loans that exceeded the maximum rate allowed under Minnesota law. This Office has filed a motion seeking an order from the Hennepin County district court declaring all of these illegal loans void and requiring the schools to refund all amounts that borrowers have paid on the illegal loans.

RESIDENTIAL UTILITIES AND ANTITRUST

The division represents the interests of residential and small business utility consumers in the complex and changing electric, natural gas, and telecommunications industries, particularly with regard to utility rates, reliability of service, and quality issues pursuant to statute.

The division also investigates potential violations of state and federal antitrust laws, and enforces these laws when it uncovers evidence of anticompetitive conduct. The division participates in numerous coordinated investigations of potential anticompetitive conduct by multiple state and federal enforcers of antitrust laws, including other state attorneys general, the U.S. Department of Justice, and the Federal Trade Commission.

Specific examples of the division's work in FY 2017 include:

Utilities

- ***Minnesota Power’s Proposed Rate for EITE Customers.*** Minnesota Power requested a discounted rate for its Energy Intensive Trade Exposed (“EITE”) customers in November of 2015. The division intervened and contested the utility’s claim that it had met its burden to show that the discount would result in a net benefit to the utility or the state. The Public Utilities Commission rejected Minnesota Power’s request and required the utility to provide more evidence of the net benefit. Minnesota Power then filed a revised request in June of 2016 and the division again intervened. The Public Utilities Commission approved the utility’s revised filing and authorized the utility to provide discounts to its EITE customers. The division also opposed Minnesota Power’s proposed cost recovery mechanism, because it did not refund non-EITE customers for any increased revenues from the EITE rate. The Public Utilities Commission agreed with the division’s critique and ordered Minnesota Power to file a different cost-recovery mechanism that uses any increased revenues from higher sales to EITE customers to refund surcharges imposed on non-EITE customers.
- ***Otter Tail Power’s Proposed Rate for EITE Customers.*** Otter Tail Power requested a discounted rate for its Energy Intensive Trade Exposed (“EITE”) customers in June of 2016. The division intervened and contested the utility’s claim that it had met its burden to show that the discount would result in a net benefit to the utility or the state. The Public Utilities Commission rejected Otter Tail’s request and required the utility to provide more evidence of the net benefit. Otter Tail then filed a revised request in April of 2017 and the division again intervened. The Public Utilities Commission approved the utility’s revised filing at its June 29, 2017 hearing, and authorized the utility to provide discounts to its EITE customers. The Public Utilities Commission did not approve Otter Tail’s proposed cost-recovery mechanism, and indicated at its hearing that it will order Otter Tail to provide additional information on its request.
- ***Minnesota Power Electric Rate Case.*** Minnesota Power filed a rate case seeking a \$55.1 million rate increase in November, 2016. The division intervened in the rate case and filed testimony opposing the request, including the allowed return for Minnesota Power’s shareholders; the company’s expenses for travel, entertainment, and gifts; incentive compensation, and the proportion of any increase that Minnesota Power was seeking to recover from residential ratepayers. Additionally, the division recommended reducing the monthly customer charges paid by residential and small business ratepayers. A contested case proceeding was held in August, 2017, before the Office of Administrative Hearings. The Commission’s decision on the matter is expected by February, 2018.
- ***Minnesota Energy Resources Corporation (MERC) Gas Rate Case.*** MERC filed a rate case seeking a \$14.8 million increase in rates in 2016. The division intervened in the rate case and contested multiple aspects of the request, including the costs of upgrading its customer service operations, the study used to determine which customer classes contribute to the cost of providing utility service, application of a higher rate increase to residents and small businesses than to large business customers, the rate of inflation MERC assumed to justify its request, the amount of unpaid utility bills the company assumed in future years, and MERC’s proposal to increase the customer charge for residential customers to \$11 per month from their current rates of either \$9.50 or \$5 per

month. After a contested case proceeding, the Public Utilities Commission reduced MERC's requested increase by almost 50 percent to \$6.8 million. The Commission also set the residential customer charges at \$9.50 and \$7.25.

- **Otter Tail Power Company Electric Rate Case.** Otter Tail Power Company filed a request for a \$19.3 million rate increase. The division intervened in the case and opposed multiple aspects of the request, including the allowed return on equity, travel and entertainment expenses for company employees, and expenses associated with operating the company's airplane. Also, the division opposed increasing the percentage of rates that are recovered from residential customers. On May 1, 2017, the Public Utilities Commission issued an order authorizing rates that were \$8.8 million less than Otter Tail's initial request and adopting the division's proposed interclass revenue apportionment.
- **Xcel Energy's Gas Utility Infrastructure Rider.** In November, 2016, Xcel Energy's gas utility filed its third petition for rider recovery of approximately \$22 million for 2017 costs incurred for projects the company argues are eligible for rider recovery. The division filed comments recommending: a cap on revenue to protect ratepayers, more detailed information on costs, establishment of more robust performance metrics, and a reduction to the allowed cost of equity. The Public Utilities Commission has not taken action on this docket at the time of this writing.
- **Northern States Power Company (Xcel Energy) 2015 Rate Case.** Xcel Energy filed a rate case seeking a rate increase of \$297.1 million over three years. The division intervened in the rate case and filed testimony opposing the request, including the allowed return on equity for Xcel's shareholders, the company's capital budget, travel and entertainment expenses, and the proportion of any rate increase that would be assigned to residential customers. The division also recommended reducing the monthly customer charges paid by residential and small business ratepayers. After a contested case hearing, the Public Utilities Commission awarded Xcel Energy a rate increase of \$244.96 million over four years, rather than three. The Commission rejected Xcel Energy's request to increase the customer charge, and assigned a lower proportion of the rate increase to residential customers than requested by Xcel Energy.
- **Minnesota Energy Resources Corporation (MERC) Rochester Pipeline Cost Recovery.** MERC filed a petition seeking approval to significantly upgrade pipeline infrastructure around Rochester to accommodate anticipated growth in the area. MERC also requested approval to recover 33 percent of the costs of the project through a new Natural Gas Extension Project ("NGEP") Rider under Minnesota Statutes section 216B.1638. MERC estimated that the costs of the project would be approximately \$100 million, of which \$55 million would be paid to Northern Natural Gas to provide for upgraded interstate pipeline infrastructure. The division requested that the matter be referred to the Office of Administrative Hearings for a contested case proceeding, and the Public Utilities Commission agreed. The division filed testimony opposing MERC's request because the proposal would significantly overbuild natural gas capacity, and increase costs for all customers, compared to other project options that would phase-in infrastructure upgrades over time, or cancel them if expected growth does not materialize. The division also recommended that the costs for the project should not be recovered through the NGEP Rider. The Commission approved MERC's request to recover up to 33 percent of the

distribution costs through the NGEP Rider, and to recover the cost of interstate pipeline upgrades through its purchased-gas-adjustment rider. While the Commission approved the project, the Commission ordered MERC to take steps to mitigate the cost impact of excess capacity and address how to include additional customer groups in sharing the costs in a future rate proceeding.

- **Fuel Clause Reform.** In May, 2017, the division filed comments at the PUC supporting a mechanism to reform how electric utilities are able to automatically adjust their rates to recover their fuel costs. The goal of this reform would be to provide stronger incentives for electric utilities to save ratepayers money by controlling their fuel costs. The Public Utilities Commission has not yet taken action on this initiative.

Antitrust

- **Generic Pharmaceuticals Pricing Antitrust Litigation.** Minnesota and other states filed a complaint in Connecticut federal court against Heritage Pharmaceuticals Inc., Teva Pharmaceuticals, Mylan NV, Mayne Pharma, Aurobindo Pharma, and Citron Pharma LLC, alleging that the companies violated state and federal antitrust laws by conspiring to fix prices and allocate markets for Doxycycline Hyclate Delayed Release, an antibiotic, and Glyburide, an oral diabetes medication. In August 2017, the case was transferred to the Eastern District of Pennsylvania and consolidated with other private class action cases alleging similar antitrust violations against generic drug manufacturers. The lawsuit seeks injunctive relief, civil penalties, damages, and disgorgement.
- **Suboxone Multistate Antitrust Litigation.** In September, 2016, Minnesota and other states filed a complaint in Pennsylvania federal court against Indivior, Inc., Reckitt Benckiser Healthcare (UK), Ltd., Indivior PLC, and MonoSol Rx LLC, alleging that the companies conspired to coerce patients to switch from a tablet form to a film form of the drug Suboxone, used to treat patients addicted to opioids. The lawsuit seeks injunctive relief, civil penalties, and disgorgement.
- **Provigil Multistate Antitrust Litigation.** In July, 2017 a Pennsylvania federal district court granted final approval of a settlement that Minnesota and other states reached with Cephalon, Inc., Teva Pharmaceuticals Industries Ltd., Teva Pharmaceuticals USA, Inc., and Barr Pharmaceuticals, who allegedly entered into legal settlements that kept generic competition to the branded drug Provigil from entering the market. The settlement provides for payment of approximately \$1 million to the State of Minnesota and will make available funds for recovery of losses by Minnesota consumers.

APPENDIX A: SERVICE HOURS				
By Agency or Political Subdivision for FY 2017				
Agency/Political Subdivision	Estimated Service Hours (1)	Actual Service Hours	Estimated Expenditures	Actual Expenditures (2)
<i>Partner Agencies</i>				
Administration--Risk Management		1,653.7		\$ 193,862.50
AURI		7.8		\$ 1,006.20
Corrections (3)	3,159.1	3,159.1	\$ 388,785.00	\$ 388,784.10
Education Department	1,380.0	3,015.8	\$ 178,020.00	\$ 378,667.80
Environmental Quality Board		87.4		\$ 11,274.60
Gambling Control Board		183.3		\$ 23,645.70
Health		3,450.4		\$ 442,300.20
Housing Finance Authority		71.8		\$ 8,554.60
Human Services	24,771.0	28,373.8	\$ 3,108,380.00	\$ 3,636,962.20
Iron Range Resources & Rehabilitation		169.3		\$ 20,969.70
Labor and Industry Department (3)		2,521.4		\$ 323,114.60
Lottery		441.0		\$ 49,615.80
Medical Practices Board	6,437.0	5,155.6	\$ 563,600.00	\$ 502,956.60
Minnesota Racing Commission		40.2		\$ 5,185.80
Minnesota State Retirement System		442.5		\$ 55,731.10
MN State		6,039.8		\$ 716,186.80
MNsure		1.8		\$ 127.80
Natural Resources		7,001.7		\$ 880,657.30
Petroleum Tank Release Compensation Board	100.0	53.5		\$ 6,901.50
Pollution Control		5,708.0		\$ 730,178.20
Public Employees Retirement Association		227.7		\$ 29,280.50
Public Safety (3)		8,224.3		\$ 887,050.70
Revenue (3)	4,500.0	4,500.0	\$ 580,500.00	\$ 580,500.00
Teachers Retirement Association		111.3		\$ 14,357.70
Transportation		10,293.6		\$ 1,324,556.80
TOTAL PARTNER AGENCIES	40,347.1	90,934.8	\$ 4,819,285.00	\$ 11,212,428.80
<i>Health Boards/Offices</i>				
Behavioral Health & Therapy Board		485.3		\$ 38,382.90
Chiropractic Board		1,645.5		\$ 165,277.90
Dentistry Board		1,363.5		\$ 140,807.30
Dietetics & Nutrition Practice Board		19.1		\$ 2,463.90
Emergency Medical Services Regulatory Board		250.1		\$ 29,542.70
Health Professionals Services Program		64.3		\$ 8,294.70
Licensed Drug & Alcohol Counselor Program		1,659.6		\$ 143,084.80
Marriage & Family Therapy Board		307.6		\$ 30,429.40
Nursing Board		7,110.9		\$ 743,323.50
Nursing Home Administrators Board		68.8		\$ 8,040.00
Optometry Board		101.6		\$ 9,719.20
Pharmacy Board		1,289.5		\$ 139,561.10
Physical Therapy Board		339.3		\$ 36,276.10
Podiatry Board		113.0		\$ 10,778.00
Psychology Board		2,092.9		\$ 203,057.90
Social Work Board		2,245.1		\$ 208,388.90
Veterinary Medicine Board		744.0		\$ 84,434.00
SUBTOTAL		19,900.1		\$ 2,001,862.30

APPENDIX A: SERVICE HOURS				
By Agency or Political Subdivision for FY 2017				
Agency/Political Subdivision	Estimated Service Hours (1)	Actual Service Hours	Estimated Expenditures	Actual Expenditures (2)
Other State Agencies/Political Subdivisions				
Accountancy Board		186.8	\$ 23,923.20	
Administration Department		675.8	\$ 72,945.00	
Administrative Hearings Office		84.2	\$ 10,861.80	
Agriculture Department		430.0	\$ 55,412.00	
Amateur Sports Commission		8.2	\$ 1,057.80	
Animal Health Board		60.3	\$ 7,778.70	
Architecture Board		159.8	\$ 20,614.20	
Asian Pacific Minnesotans Council		3.2	\$ 383.80	
Barber Board		28.3	\$ 3,650.70	
Campaign Finance Board		149.1	\$ 18,265.30	
Capitol Area Architectural Planning Board		8.0	\$ 974.00	
Center for Arts Education		49.5	\$ 5,764.90	
Client Security Board		323.1	\$ 39,562.90	
Commerce Department		10,866.1	\$ 1,376,914.50	
Commission Serving Deaf and Hard of Hearing		3.0	\$ 387.00	
Corrections Department (3)		6,142.8	\$ 748,712.40	
Corrections Department/Community Notification		1,526.6	\$ 161,824.00	
Cosmetology Examiners Board		35.8	\$ 4,618.20	
Council for Minnesotans of African Heritage		178.5	\$ 22,869.90	
Council on Latino Affairs		4.6	\$ 593.40	
Crime Victims Reparations Board		112.5	\$ 13,816.50	
Disability Council		6.6	\$ 839.80	
Employment & Economic Development Department		2,424.1	\$ 223,209.10	
Executive Council		2.8	\$ 361.20	
Explore Minnesota Tourism		7.0	\$ 659.40	
Faribault Academies		11.6	\$ 1,444.20	
Firefighter Training & Education Board		22.8	\$ 2,941.20	
Governor's Office		413.4	\$ 52,319.40	
Higher Education Facilities Authority		0.3	\$ 38.70	
Higher Education Services Office		492.9	\$ 62,174.70	
Human Rights Department		1,113.9	\$ 142,915.90	
Judiciary Courts		539.2	\$ 69,556.80	
Labor and Industry Department (3)		1,854.5	\$ 236,127.50	
Land Exchange Board		2.7	\$ 348.30	
Law Examiner's Board		69.4	\$ 8,952.60	
Lawyers Professional Responsibility Board		17.1	\$ 2,205.90	
Legislative: Auditor's Office		64.0	\$ 8,256.00	
Legislature		39.6	\$ 5,108.40	
Mediation Services Bureau		366.9	\$ 47,214.10	
Military Affairs Department		298.7	\$ 38,532.30	
Minnesota Management & Budget		644.5	\$ 80,959.70	
MN.IT Services Office		156.6	\$ 12,736.80	
Ombudsman for Mental Health & Developmental Disabilities		21.9	\$ 2,825.10	
Ombudsperson for Families		53.6	\$ 6,914.40	
Peace Officers Standards and Training Board		135.3	\$ 17,453.70	
Private Detective Board		406.7	\$ 52,464.30	
Public Defender, Local		1.2	\$ 154.80	
Public Defender, State		21.6	\$ 2,786.40	
Public Safety Department (3)		19,207.0	\$ 2,128,084.80	
Public Utilities Commission		2,718.3	\$ 350,660.70	
Revenue Department (3)		4,927.1	\$ 635,153.00	
Rural Finance Authority		20.8	\$ 2,683.20	
School Administrators Board		202.1	\$ 26,070.90	
Secretary of State		1,120.7	\$ 144,512.30	
Sentencing Guidelines Commission		54.1	\$ 6,845.50	
State Arts Board		11.6	\$ 1,374.60	
State Auditor		6.1	\$ 786.90	
State Fair Board		1.2	\$ 154.80	
State Guardian Ad Litem Board		11.1	\$ 1,431.90	
State Historical Society		1.0	\$ 129.00	
State Investment Board		331.1	\$ 42,358.10	

APPENDIX A: SERVICE HOURS				
By Agency or Political Subdivision for FY 2017				
Agency/Political Subdivision	Estimated Service Hours (1)	Actual Service Hours	Estimated Expenditures	Actual Expenditures (2)
Teaching Board		1,512.0		\$ 195,048.00
Veterans Affairs Department		116.5		\$ 14,187.50
Veterans Homes		1,197.6		\$ 139,636.60
Water & Soil Resources Board		687.4		\$ 88,477.40
Workers Comp Court of Appeals		1.0		\$ 129.00
Zoological Board		39.1		\$ 5,043.90
SUBTOTAL		62,390.9		\$ 7,453,199.00
OTHER GOVERNMENT				
Aitkin County Attorney		95.6		\$ 9,142.40
Anoka County Attorney		946.4		\$ 93,265.40
Becker County Attorney		313.2		\$ 39,793.80
Beltrami County Attorney		1,075.6		\$ 106,121.60
Benton County Attorney		194.5		\$ 24,713.50
Big Stone County Attorney		4.5		\$ 580.50
Blue Earth County Attorney		1,341.6		\$ 129,090.80
Brown County Attorney		1,346.5		\$ 126,016.70
Carlton County Attorney		330.3		\$ 39,940.70
Carver County Attorney		0.8		\$ 103.20
Cass County Attorney		471.7		\$ 51,209.70
Chippewa County Attorney		198.9		\$ 25,368.10
Chisago County Attorney		42.5		\$ 5,192.50
Clay County Attorney		194.6		\$ 21,646.60
Clearwater County Attorney		86.7		\$ 10,952.30
Cook County Attorney		674.3		\$ 67,554.70
Cottonwood County Attorney		310.3		\$ 35,736.70
Crow Wing County Attorney		317.5		\$ 31,254.10
Dakota County Attorney		2,236.2		\$ 201,870.00
Dodge County Attorney		1.4		\$ 180.60
Douglas County Attorney		82.4		\$ 10,571.60
Fillmore County Attorney		67.6		\$ 8,720.40
Freeborn County Attorney		269.2		\$ 27,929.20
Goodhue County Attorney		92.3		\$ 11,645.70
Hennepin County Attorney		17,416.1		\$ 1,549,563.30
Houston County Attorney		66.0		\$ 8,514.00
Hubbard County Attorney		480.7		\$ 53,287.10
Isanti County Attorney		144.5		\$ 18,582.50
Itasca County Attorney		330.8		\$ 33,828.20
Kandiyohi County Attorney		352.9		\$ 40,420.10
Koochiching County Attorney		53.5		\$ 6,872.50
Lac qui Parle County Attorney		73.5		\$ 8,814.50
Le Sueur County Attorney		73.4		\$ 9,236.60
Lyon County Attorney		73.2		\$ 9,413.80
Mahnomen County Attorney		50.8		\$ 6,089.20
Marshall County Attorney		145.4		\$ 18,524.60
Martin County Attorney		309.2		\$ 29,058.20
McLeod County Attorney		20.4		\$ 1,506.40
Meeker County Attorney		374.6		\$ 48,149.40
Mille Lacs County Attorney		432.6		\$ 47,963.80
Morrison County Attorney		6.8		\$ 569.80
Mower County Attorney		572.7		\$ 72,573.30
Nicollet County Attorney		1.0		\$ 71.00
Nobles County Attorney		1,505.0		\$ 147,037.40
Olmsted County Attorney		451.8		\$ 36,909.20
Otter Tail County Attorney		817.7		\$ 90,490.30
Pennington County Attorney		324.8		\$ 33,141.20
Pine County Attorney		186.2		\$ 22,308.80
Polk County Attorney		125.9		\$ 13,979.10
Ramsey County Attorney		8,269.1		\$ 781,551.10
Redwood County Attorney		9.9		\$ 1,277.10
Renville County Attorney		167.3		\$ 19,621.30
Rice County Attorney		5.0		\$ 645.00
Rock County Attorney		0.3		\$ 38.70

APPENDIX A: SERVICE HOURS				
By Agency or Political Subdivision for FY 2017				
Agency/Political Subdivision	Estimated Service Hours (1)	Actual Service Hours	Estimated Expenditures	Actual Expenditures (2)
Scott County Attorney		68.3		\$ 5,243.70
Sherburne County Attorney		423.6		\$ 37,453.20
Sibley County Attorney		92.5		\$ 9,948.90
St. Louis County Attorney		988.3		\$ 120,994.70
Stearns County Attorney		898.7		\$ 104,825.30
Steele County Attorney		2,105.5		\$ 209,578.50
Stevens County Attorney		1,146.0		\$ 106,201.60
Swift County Attorney		49.8		\$ 6,424.20
Todd County Attorney		1,004.9		\$ 103,329.10
Wabasha County Attorney		105.5		\$ 13,232.50
Wadena County Attorney		1,078.4		\$ 96,628.60
Waseca County Attorney		10.6		\$ 1,367.40
Washington County Attorney		220.8		\$ 24,991.60
Watonwan County Attorney		77.1		\$ 9,829.90
Wilkin County Attorney		0.9		\$ 116.10
Winona County Attorney		346.1		\$ 37,715.90
Wright County Attorney		148.0		\$ 16,661.80
Yellow Medicine County Attorney		491.9		\$ 61,483.10
Association of County Attorneys		101.3		\$ 13,067.70
Various Local Governments		84.4		\$ 10,887.60
SUBTOTAL		52,978.3		\$ 5,178,619.70
TOTAL PARTNER/SEMI-PARTNER AGENCIES (from page A-1)		90,934.8		\$ 11,212,428.80
TOTAL NON-PARTNER AGENCIES SUBDIVISIONS		135,269.3		\$ 14,633,681.00
GRAND TOTAL HOURS/EXPENDITURES		226,204.1		\$ 25,846,109.80

Notes:

(1) The projected hours of service were agreed upon mutually by the partner agencies and the AGO. Actual hours may reflect a different mix of attorney and legal assistant hours than projected originally.

(2) Billing rates: Attorney \$129.00 and Legal Assistant \$71.00

(3) A number of agencies signed agreements for a portion of their legal services.

**APPENDIX B: SPECIAL ATTORNEY EXPENDITURES
FOR FY 2017, BY AGENCY/POLITICAL SUBDIVISION**

AGENCY/POLITICAL SUBDIVISION	Amount
Administration	\$ 666,279.57
Labor and Industry	\$ 15,657.43
Minnesota Department of Natural Resources	\$ 18,478.81
Minnesota Management & Budget	\$ 50,538.00
Revenue	\$ 33,571.45
Other	\$ 1,360.00
TOTAL	\$ 785,885.26

APPENDIX B: SPECIAL ATTORNEY EXPENDITURES
BOND COUNSEL FOR FY 2017, BY AGENCY/POLITICAL SUBDIVISION

AGENCY/POLITICAL SUBDIVISION	Amount
Higher Education Facilities Authority	\$ 94,543.27
Higher Education Services Office	\$ 22,024.69
Housing Finance Agency	\$ 223,858.24
Minnesota Agricultural and Economic Development Board	\$ 2,690.56
Minnesota Department of Commerce	\$ 23,091.89
Minnesota Management & Budget	\$ 163,686.91
MnSCU	\$ 31,101.06
TOTAL	\$ 560,996.62
NOTE: Certain bond fund counsel are paid from proceeds.	