



OFFICE OF THE ATTORNEY GENERAL FY2017

What We Do: Four Core Functions

- **ENFORCE** laws of the State of Vermont
- **DEFEND** State of Vermont laws, policies, employees
- **PRODUCE** revenues
- **PROTECT** Vermont citizens

OFFICE OF THE ATTORNEY GENERAL

Authority of the Attorney General

Title 3 of the Vermont Statutes Annotated

- Section 152 The attorney general may represent the state in all civil and criminal matters as at common law and as allowed by statute. The attorney general shall also have the same authority throughout the state as a state's attorney.
- Section 153 The attorney general shall have the general supervision of criminal prosecutions, shall consult with and advise the state's attorneys in matters relating to the duties of their office, and shall assist them by attending the grand jury in the examination of any cause or in the preparation of indictments and informations when, in his judgment, the interests of the state require it.
- Section 157 The attorney general shall appear for the state in the preparation and trial of all prosecutions for homicide and civil or criminal causes in which the state is a party or is interested when, in his judgment, the interests of the state so require.
- Section 159 The attorney general shall advise the elective and appointive state officers on questions of law relating to their official duties... He shall have general supervision of matters and actions in favor of the state and of those instituted by or against state officers wherein interests of the state are involved and may settle such matters and actions as the interests of the state require.

OFFICE OF THE ATTORNEY GENERAL

Division Highlights

Civil Litigation Division

Defends money claims against the State, State officials and State employees

- 686 lawsuits were filed against the State, State officials and State employees in 2015, including wrongful death, personal injury, civil rights claims

Defends lawsuits that challenge State laws and policies

- GE Food Labeling Litigation – *GMA* case: Defending against constitutional claims made by trade associations, pending in Vermont federal court
- Employment policies – *Coniff*: Second Circuit affirmed ruling that Vermont overtime policies comply with FLSA; *Silloway*: Vermont Supreme Court affirmed trial court decision that DOC hiring decision did not violate Vermont Equal Pay Act
- Hospital Provider Tax Litigation – Defending claims against DVHA by Fletcher Allen and other hospitals for \$39,000,000 in tax refunds
- *DHMC v. Cohen* Medicaid Reimbursement case – Defending Dartmouth Hitchcock lawsuit in New Hampshire federal court challenging Medicaid reimbursement rates for out-of-state hospital on constitutional grounds
- Campaign finance – *Vermont Right to Life Committee*: Second Circuit affirmed dismissal of constitutional challenge to Vermont law, U.S. Supreme Court denied petition for review; *Corren v. Sorrell*: Defending federal court case by prospective candidates, contributors and political party challenging Vermont’s system of public financing as unconstitutional; Ongoing enforcement cases.

Criminal Division

Prosecutes/investigates felonies, public corruption, other crimes (statewide)

- Vermont Internet Crimes Against Children (VT-ICAC) Task Force Grant: Eleven criminal cases filed involving child exploitation occurring over the internet. Charges filed in eight counties. As of October 1, 2015, the AGO became the lead agency responsible for operations of the VT-ICAC Task Force.

OFFICE OF THE ATTORNEY GENERAL

Division Highlights

Criminal Division (continued)

- Homicide/manslaughter prosecutions (*State v. DUBY*, *State v. Pelletier*, – Rutland, *State v. Herring*, *State v. Jalbert* – Washington, *State v. Smith* – Windsor)
- Motor vehicle fatality prosecutions (*State v. Spanos* (jury trial), *State v. Sullivan* (jury trial), *State v. Dibellis* – Rutland)
- Drug Task Force cases: over 140 investigations and prosecutions opened in 2015
- Handles criminal appeals, post-conviction relief proceedings and other criminal matters (statewide)
- Public corruption and embezzlement (i.e. *State v. Peduzzi* – Washington – Risk Management employee who stole more than \$217,000)
- Police cases: alleged criminal misconduct and use of deadly force reviews (i.e. *State v. Palmer* – Windsor)

Enforces Medicaid Fraud and patient abuse laws

- Arraigned 15 defendants, and convicted 14 defendants, in SFY2015 and SFY2016 to date.
- Recovered approximately \$583,610 to State Medicaid Program for Medicaid Fraud in SFY2015 and SFY2016 to date

Environmental Protection Division

Enforces clean air, clean water, hazardous waste and other environmental laws.

Actions include:

- Enforcement actions to address Act 250 and water quality violations by private ski resort in Wilmington and Dover
- Criminal prosecutions resulting in felony convictions of a Brattleboro company for solid waste and false claims violations
- Collaborative enforcement efforts on agriculture water quality cases
- Ongoing work on claims against insurers of Lowell/ Eden asbestos mine
- \$874,810 in awards, penalties and recoveries in SFY2015 and SFY2016 to date

OFFICE OF THE ATTORNEY GENERAL

Division Highlights

Environmental Protection Division (continued)

Vermont Yankee and Nuclear Matters

- Successful litigation on Entergy's request to stop giving advance notice of planned withdrawals from Decommissioning Trust Fund. Entergy withdrew its request and State successfully sought conditions on that withdrawal; federal court challenges to Entergy's use of Fund for spent fuel costs
- Lawsuit against Nuclear Regulatory Agency on new long-term storage rule for spent nuclear fuel, following successful challenge of prior rule

General Counsel and Administrative Law Division

- Provides legal counsel to constitutional officers, agencies, departments
- Litigates Labor Board, Human Rights Commission, Liquor Control and Medical Board cases (GCAL handled 278 administrative cases in 2015)
- Negotiates and drafts complex investment and IT contracts; for example, contracts for \$4,000,000,000 in pension investments
- Reviewed 1,080 contracts in SFY2015 for compliance with state law
- Enforces campaign finance and election laws
- Advises state agencies on routine and complex access to records matters
- Successfully defended a highway design case in Vermont Supreme Court
- Defense of pending lawsuits seeking more than \$4,000,000 in property tax reductions for hydroelectric plants on the Connecticut and Deerfield Rivers
- Supervises the statewide Court Diversion programs responsible for more than 4,800 referrals in SFY2015

Human Services Division

- Provides legal representation to the Agency of Human Services and its Departments in civil and administrative litigation including termination of parental rights trials and appeals, fair hearings in benefits cases, inmate grievances, contract disputes, competency, hospitalization and medication cases; hospital tax appeals
- Reviews Agency and Department contracts and grants
- Advises on legal matters including licensing and rulemaking, legislation, access to records requests and privacy and HIPAA matters

OFFICE OF THE ATTORNEY GENERAL

Division Highlights

Human Services Division (continued)

- Department highlights:
 - DCF/Family Services Cases (TPRs) increased 35% last year – from 248 to 335 petitions filed
 - DCF/Economic Services cases more than doubled – from 626/year to 1,290/year – over the past five years
 - Corrections – cases increased 35% last year – from 79 to 107
 - DAIL – civil litigation and appeals
 - Mental Health – 500 involuntary treatment applications per year, 300 applications for continued treatment, 150 competency hearings (working with SA's)
 - Health – legal issues related to Ebola (access to records, etc.)
 - DVHA – legal work on hospital tax audits and claims

- Total cases and matters opened in SFY2015:

○ Civil litigation	1,626 cases
○ Administrative litigation	1,433 cases
○ Vermont Supreme Court appeals	83 cases
○ Criminal litigation	53 cases
○ Contract reviews	2,179 matters
○ Access to records requests	232 requests

Public Protection Division

- Enforces employment discrimination, hate crime, and civil rights laws
- Enforces consumer protection and antitrust laws with financial recoveries to the State of \$8,152,221 in FY15 and FY16 (July to January). In addition to the total recoveries to the State; recoveries to consumers were more than \$2,000,000. The major categories of consumer recoveries over the eighteen-month period were:
 - Cramming - \$673,000
 - Propane - \$311,000
 - Mortgage/Foreclosures - \$250,000
 - Deceptive advertising - \$250,000

OFFICE OF THE ATTORNEY GENERAL

Division Highlights

Public Protection Division (continued)

- Unlicensed internet lending - \$175,000
- To Businesses - \$170,000

Solicitor General and Appellate Unit

- *Gobeille v. Liberty Mutual* – The Solicitor General argued this case in the U.S. Supreme Court, defending the Green Mountain Care Board’s all payer claims database, which is essential to the Board’s mission.
- *Patent trolling* – advocating on several courts in case against MPHJ Technologies, which targeted Vermont businesses and nonprofits with demands for substantial licensing fees for using document scanners to send documents by email. Cert petition pending with the U.S. Supreme Court.
- *Child protection appeals*: In FY15, the office opened 57 appeals in child protection cases (TPR and CHINS cases). The Appellate Unit oversees all of these cases – the largest part of the appellate docket – to assure that the cases are adequately staffed when the DCF attorneys are over-burdened. In addition to reviewing all child protection appeals, the appellate unit attorneys have directly handled approximately ten of these appeals, and supervised AAGs from other divisions to handle another half dozen or so.
- *Child protection legislation*: The Unit staffed the working group on child protection legislation, with responsibility for drafting the meeting agendas, minutes, and interim report to the legislature.
- *Amicus participation*: the Unit coordinates amicus participation at the U.S. Supreme Court. Vermont has participated in amicus briefs in support of the Affordable Care Act, access to health services, immigration reform, and environmental programs. The unit also responds to requests for briefing from the Vermont Supreme Court and files briefs in federal courts when cases between private parties present important questions of Vermont law.
- *Assistance across all divisions*: the Unit has provided substantial input and oversight on major appeals across most divisions of the office, including tax, mental health, environmental and Act 250, corrections, criminal and civil defense. Some significant recent or pending appeals include:
In re Plum Creek Main Timberlands – current use appeal involving the state’s largest landowner

OFFICE OF THE ATTORNEY GENERAL

Division Highlights

Solicitor General and Appellate Unit (continued)

Citibank N.A. v. Department of Taxes – effort by retailers and credit card companies to get sales tax refund

State of Vermont v. Atlantic Richfield Co. – state’s action against manufacturers and distributors of MTBE

TransCanada v. Town of Rockingham – property value assessment for the Bellows Falls hydroelectric station

In re B&M Realty – Act 250 appeal about the application of regional plans

In re Taylor – appeal from Medical Practice Board’s denial of a request to reinstate a medical license

State v. B.C. – consolidated appeals about orders for involuntary treatment

D.C. v. Schatz – pending appeal against DCF regarding Woodside

Tobacco

- Diligent enforcement of tobacco master settlement agreement
- Total tobacco recoveries in FY15 were more than \$33,650,000

OFFICE OF THE ATTORNEY GENERAL

**Financial Recoveries for State of Vermont
July 1, 2014 to January 11, 2016**

Civil Law Division	\$	57,072
Environmental Division	\$	874,810
Medicaid Fraud & Residential Abuse Unit (Criminal)	\$	583,610
Public Protection Division (Consumer Fraud/Antitrust)	\$	8,152,221
Tobacco / MSA and Strategic Payment	\$	33,654,249
Attorney General Total	\$	43,321,962

OFFICE OF THE ATTORNEY GENERAL
AGO Recoveries - FY14 to FY15 (YTD)
Period of July 1, 2014 to January 11, 2016

SUMMARY OF RECOVERIES		
DIVISION	FY15	FY16 YTD
Civil Division	57,072	0
Environmental Division	874,810	0
Medicaid Fraud & Residential Abuse Unit	352,765	230,845
Public Protection Division	5,755,623	2,396,598
Tobacco	33,654,249	0
Total Recoveries	40,694,519	2,627,443

Case State v.	Settle Date	Vermont Share	Comments
--------------------------	------------------------	--------------------------	-----------------

CIVIL DIVISION			
Vermont Right to Life Committee	09/24/14	3,572	
Republican Governor's Association	03/23/15	40,000	
Pam Pac	03/22/15	2,000	
Vermont Democratic Party	03/26/15	10,000	
Shaw, Chris	04/08/15	750	
Nowak, Patricia	04/08/15	750	
Total	FY15	57,072	
Total	FY16 YTD	0	

ENVIRONMENTAL DIVISION			
Shacam's Beverage	07/02/14	14,400	Direct to ANR
Sisters and Brothers Investment (Handy's)	08/11/14	70,000	
Nelson, Richard (Nelson Farms)	09/18/14	33,000	
Riendeau, Reginald	11/07/14	60,000	
Fireman's Fund	11/13/14	332,500	Direct to ANR
Leach Farms	11/19/14	40,000	
Nelson Farms, Inc.	12/23/14	45,621	
Bradford Oil	12/23/14	69,289	
Hermitage Ski Club	05/01/15	205,000	
Expert Drain Care	05/18/15	5,000	
Total	FY15	874,810	
Total	FY16 YTD	0	

Case State v.	Settle Date	Vermont Share	Comments
MEDICAID FRAUD & RESIDENTIAL ABUSE UNIT			
Omnicare, Inc.	08/26/14	81,708	
Hathaway-Therrian, C	08/05/14	3,218	Restitution to DVHA
LaFond, Kim	09/16/14	845	Restitution to DVHA
LaFond, Clayton	09/16/14	1,659	Restitution to DVHA
Shire Pharmaceuticals	09/17/14	81,390	
Physicians Toxicology	09/15/14	33,142	Restitution to DVHA
Delancey, Mandi	10/07/14	2,535	Restitution to DVHA
Organon Pharmaceuticals USA - I	10/15/14	34,816	Restitution to DVHA
Organon Pharmaceuticals USA - II	10/15/14	40,640	Restitution to DVHA
Hill, Magen	10/23/14	2,018	Restitution to DVHA
OtiMed-Stryker	01/09/15	1,647	
Leonard, Hilary	01/20/15	2,345	Restitution to DVHA
McGovern, Nikiesha	02/24/15	968	Restitution to DVHA
Daiichi Sankyo, Inc.	03/05/15	18,748	
Ambrose, Theresa	03/16/15	2,178	Restitution to DVHA
Harry's Pharmacy	04/09/15	42,080	Balance remaining
LaFond, Rebecca	05/05/15	2,504	Restitution to DVHA
Inspire Pharmaceuticals	06/11/15	326	
Total	FY15	352,765	
Gross, Carmen		41,567	Restitution to DVHA
NuVasive	08/24/15	2,529	
Cephalon		26,857	Direct to DVHA
AstraZeneca	09/28/15	76,214	Direct to DVHA
Buggiani, Frank DPM	10/05/15	83,679	
Total	FY16 YTD	230,845	

Case State v.	Settle Date	Vermont Share	Comments
PUBLIC PROTECTION DIVISION			
Cash Cure, LLC	07/03/14	15,000	
Shelburne Country Store	07/08/14	3,000	
Enhanced Services Billing (Localbiz)	08/04/14	125,000	
SEI / Aaron's	08/29/14	45,000	
Payment Systems (Merchant Proc Sol)	09/04/14	100,000	
Intercept Corp.	10/06/14	10,000	
Integral Resources	10/08/14	5,000	
TDBank	10/17/14	82,987	
Lead Concepts, Inc.	10/15/14	85,000	
AT&T Mobility LLC	10/06/14	1,161,893	
Green Tree Servicing	10/30/14	176,750	
Buck's Furniture	11/05/14	11,000	
Active.com / ActiveAdvantage	11/24/14	25,000	
Stonebridge Benefit Svcs.	11/25/14	175,000	
A-1 Premium Budget	12/03/14	10,000	
Sirius XM Radio	12/01/14	200,433	
T-Mobile USA	12/18/14	1,045,704	
Dollar Tree Stores	01/02/15	42,500	
Moreau, Chris (Fired Up Tobacco)	01/05/15	50,500	Balance Pending
PDR II	01/06/15	20,000	
Main Street Power Mail	01/21/15	92,435	
LifeNet Health	01/29/15	7,750	
Heraeus Kulzer LLC	02/26/15	45,000	
Premier Dental Products	03/07/15	35,000	
Leica Microsystems, Inc.	03/09/15	50,000	
Harris Connect	04/27/15	16,000	
Sprint Corporation	05/07/15	711,025	
Cellco / Verizon Wireless	05/10/15	947,372	
Equifax / Experion / TransUnion	05/20/15	85,120	
Classmates, Inc.	05/26/15	116,110	
FTD.com	05/26/15	63,294	
Dentsply International, Inc.	06/11/15	125,000	
Henry Schein, Inc.	06/15/15	56,250	
Strategic Fundraising	06/19/15	17,500	
Total	FY15	5,755,623	
Chase Bank	07/08/15	110,725	
Bank of America	07/10/15	1,000,000	
Dollar Stores	08/17/15	30,013	
Amgen, Inc.	08/17/15	717,360	
Turbo Title Loans	09/23/15	12,000	Balance Pending
Fine Line Communications	09/28/15	5,500	
RuffaloCODY, LLC	10/19/15	6,000	
Suburban Propane	10/22/15	400,000	200K LIHEAP
Keys Direct Marketing	10/28/15	6,000	
Aspen Marketing Services	12/03/15	109,000	Balance Pending
Total	FY16 YTD	2,396,598	

Case State v.	Settle Date	Vermont Share	Comments
------------------	----------------	------------------	----------

TOBACCO			
Annual Tobacco MSA Payment	FY15	21,877,482	
Annual Strategic Contribution Fund	FY15	11,688,479	
Moreau, Chris (Fired Up Tobacco)	FY15	1,000	Balance Pending
Colorado, State of	FY15	87,288	Significant Factor
Total	FY15	33,654,249	
Annual Tobacco MSA Payment	FY16 YTD	0	Payment due April 2016
Annual Strategic Contribution Fund	FY16 YTD	0	Payment due April 2016
Total	FY16 YTD	0	