



Washington State Office of Attorney General Rob McKenna

Annual Report  
FY 2007

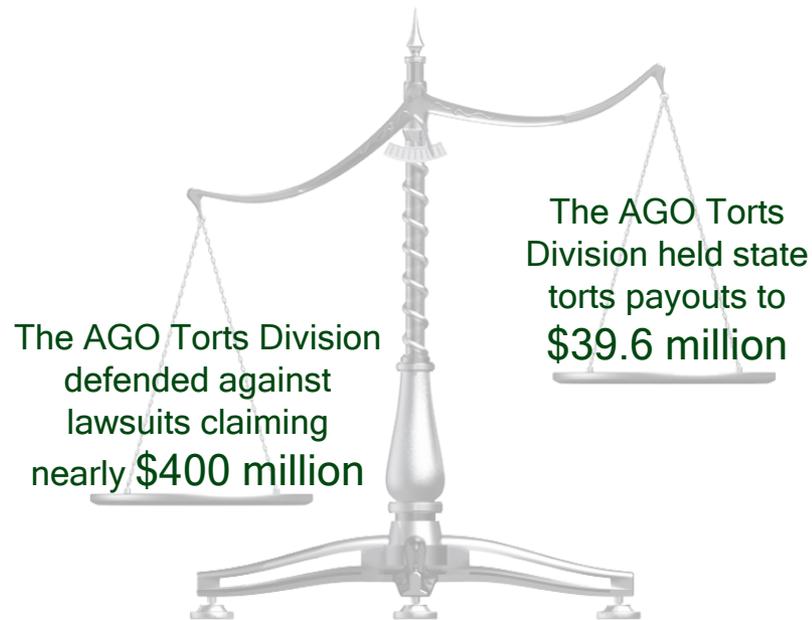


# Table of Contents

<b>Savings and Recoveries</b> .....	<b>2</b>
<b>Letter from the Attorney General</b> .....	<b>3</b>
<b>Office Initiatives</b> .....	<b>4</b>
Consumer Protection.....	4
Identity Theft.....	6
Open, Accountable Government.....	8
<b>2006-07 Legal Highlights</b> .....	<b>10</b>
Safeguarding Consumers.....	11
Protecting the Public.....	12
Saving Money for Taxpayers.....	13
Improving Public Health and the Environment.....	15
<b>Office Overview</b> .....	<b>16</b>
Legal Divisions.....	18
Administrative Units.....	25
<b>Supreme Court Cases</b> .....	<b>27</b>
<b>Awards and Honors</b> .....	<b>28</b>
<b>Office Locations</b> .....	<b>29</b>

## Washington State AGO 2007 Annual Report

# Savings and recoveries for taxpayers in fiscal year 2007\*



In addition to serving the citizens of Washington by defending state law, educating and safeguarding consumers, improving public safety and the environment, and protecting children from abuse and neglect, the Attorney General's Office saves or recovers millions of dollars each year for taxpayers and consumers. Some examples are:

Division	Amount Recovered for Taxpayers or Consumers
<b>Antitrust</b>	
Litigation Results.....	\$3,056,678
Cost and Fee Recoveries.....	\$359,951
<b>Consumer Protection Recoveries</b>	
Consumer Resource Center "Mediation" Results.....	\$5,756,401
Litigation Results.....	\$1,810,377
Lemon Law Results.....	\$3,196,679
Cost and Fee Recoveries.....	\$2,270,015
<b>DSHS Office of Financial Recovery.....</b>	<b>\$3,745,712</b>
<b>Medicaid Fraud Control Unit Fines and Recoveries.....</b>	<b>\$6,124,784</b>
<b>Bankruptcy &amp; Collections.....</b>	<b>\$9,357,039</b>
<b>Tobacco Settlement Payments.....</b>	<b>\$89,022,477</b>
<b>Total saved or recovered.....</b>	<b>\$124,700,113</b>

\* July 1, 2006 - June 30, 2007

# Letter from the Attorney General

Dear Fellow Washingtonians,

I am proud to present the 2007 Fiscal Year Report from the Attorney General's Office.

This has been a banner year for the AGO. The office made great strides on important issues such as consumer protection, identity theft and open government. We argued an unprecedented number of cases before the U.S. Supreme Court, all of them successfully.

This year also marked significant administrative accomplishments. The AGO became the first state agency to receive confirmation from the Department of Personnel for our performance-based recognition program for general service employees. Performance recognition helps us identify, encourage and reward top-performers.

Our new office building in Tumwater was the first privately owned state-leased building in Washington to receive the Leadership in Energy and Environmental Design (LEED) Silver certification from the U.S. Green Buildings Council. The LEED rating system was created to encourage and facilitate the development of more environmentally friendly buildings.

In January, we launched our new website, highlighted by a fresh look and more user-friendly navigation design. In June, we added "All Consuming," a blog dedicated to consumer protection issues, giving us an opportunity to communicate in a new, in-the-moment way to an Internet-savvy audience.

This report summarizes the progress the AGO made on several top priorities and highlights some of our legal accomplishments from Fiscal Year 2007.

It is truly an honor to serve as Washington's Attorney General. I have the pleasure of working with some of the most dedicated state employees, who are committed to serving the citizens of Washington and making a difference every day.

Sincerely,



Attorney General





# Consumer Protection

Consumer protection is one of the top priorities of the Attorney General's Office. The Consumer Protection Division, Antitrust Division, Lemon Law Unit, and Public Counsel Unit are tasked with safeguarding consumers from deceptive and unfair business practices by:

- Enforcing consumer protection and antitrust laws, recovering refunds for consumers and imposing penalties and injunctions on offending businesses.
- Educating the public on issues such as identity theft and scams that target seniors, minorities and vulnerable populations.
- Mediating complaints between consumers and businesses at no cost to either party.
- Administering Washington's Lemon Law for new motor vehicle warranty enforcement, including arbitration, education and manufacturer and dealer enforcement.
- Representing consumers who would not otherwise have an effective voice in cases regarding utility company rates and operations.

This year, the AGO made significant strides in making Washington a safer, more fair marketplace for consumers and businesses through legislation, education and mediation.

## AGO Consumer Protection highlights since 2005

- Obtaining \$1.7 million increase in CP budget
- Expanding Consumer Protection Division to fight high-tech crime
- Hosting Corporate Responsibility Conferences/CLEs
- Proposing first spyware law passed by the Legislature
- Leading Settlement of large subprime lending case with Ameriquest
- Publishing "Ask the AG" column twice monthly, answering consumer questions
- Launching "All Consuming" consumer protection blog
- Updating complaint intake technology to improve service to consumers and businesses

## Legislation

Two bills proposed by the Attorney General's Office were passed into law during the 2007 Legislative Session that will help protect consumers.

### Protecting Indirect Purchasers

The first protects indirect purchasers, such as businesses, state agencies and individual consumers, who suffer indirect harm arising from the conduct of antitrust law violators. A court recently challenged the AGO's authority to pursue monetary relief on behalf of indirect purchasers, threatening to defeat millions of dollars worth of future claims.

The new law amends the antitrust statutes to codify the AGO's common law authority to continue to pursue claims on behalf of indirect purchasers.

### Protecting Seniors from Trust Mill Scams

The second new law protects senior citizens from "trust mill" scams. Trust mills are used by salespeople who prey on seniors and convince them, through scare tactics and deception, that they need a living trust. They also gather detailed information about the senior's assets, then use the relationship to sell other financial products that may be unnecessary or contrary to the senior's interests.

Under the new law, only attorneys or those employed by attorneys may market legal estate distribution documents such as trusts and wills. Attorneys who sell inappropriate living trusts will be held accountable through bar sanctions.

## Education

During the fiscal year, consumer protection staff gave more than 150 presentations to 9,400 citizens statewide.

Staff members were frequent guests on talk radio shows and produced an educational video on protecting seniors' financial assets.

The AGO also convened two Latino Consumer Education Conferences, a Vulnerable Adults Summit and a Foreclosure Think Tank. These gatherings brought together stakeholders from every side to discuss the issues and brainstorm recommendations to better protect Washington's vulnerable populations.

## Mediation

The Consumer Protection Division's Consumer Resource Centers handled more than 20,000 consumer complaints this year and were able to mediate over \$5.7 million in adjustments for consumers.

The Lemon Law Unit processed 170 arbitration requests, which resulted in nearly \$3.2 million in payments and replacement vehicles.



The AGO Latino Consumer Education Conference in Yakima

# Identity Theft

The Attorney General's Office made tremendous strides this year in raising awareness about the danger of identity theft among consumers and businesses. The office requested legislation, gave presentations and organized free shredding events to help move Washington closer to becoming the safest state in the nation for consumers and their personal information.

## Legislation

Attorney General McKenna once again requested legislation to allow consumers to have control over access to their credit. During the 2007 session, the Legislature passed an amendment to the Fair Credit Reporting Act to allow such a "credit freeze."

Before, only victims of identity theft or consumers involved in a data breach, who filed a police report, could freeze their credit. This crucial new law allows individuals to reduce their risk of becoming identity theft victims by giving them the opportunity to "freeze," or prohibit, unauthorized access to their credit reports at any time. It also provides a quick and convenient method for consumers to quickly thaw a freeze for the purpose of buying a car, obtaining a mortgage or applying for a new credit card.



vs Bank Account

## AGO Identity Theft highlights since 2005

- Dropping Washington from 7th to 9th in the nation in reports of identity theft to the FTC
- Hosting Washington's first statewide Identity Theft Summit
- Proposing new Security Breach and Credit Freeze laws passed by the Legislature
- Encouraging, through a letter co-signed by Gov. Chris Gregoire, all state agency leaders to protect personal information
- Broadcasting radio and television public service announcements with tips on how to prevent identity theft

## Presentations

This year, AGO Consumer Protection Division staff gave more than 55 presentations on how to prevent identity theft to citizens and businesses.

Individuals were urged to take simple precautions to avoid becoming victims of identity theft, such as:

- Not giving your Social Security number, mother's maiden name or account numbers to strangers who contact you, especially by phone, Internet or mail.
- Paying attention to what time of month your bills arrive.
- Guarding your mail from theft.
- Putting passwords on your credit card, bank and phone accounts.
- Not carrying your Social Security card, credit cards or identification cards you don't need.
- Tearing or shredding personal information.
- Requesting your free annual credit report.

Staff reminded business owners they have both an opportunity and a responsibility to protect consumers' private information. The office encouraged them to review their security practices, including what data they collect, who handles the information and how personal data is stored. Staff also shared tips on how to help prevent security breaches, such as restricting access to personal data, using strong passwords and maintaining a firewall.

## Shredding Events

In April 2007, the AGO invited consumers and small businesses to bring sensitive documents containing personal information to several LEGIT Shred-a-thons held across Washington. The documents were shredded at no cost.

LEGIT (Law Enforcement Group against Identity Theft) is a multi-agency group created by the Attorney General following the 2005 Statewide Identity Theft Summit to reduce identity theft in Washington through a variety of new initiatives.

Roughly 6,000 residents attended LEGIT Shred-a-thon events held at 29 locations to safeguard themselves against dumpster diving and other low-tech ways identity thieves obtain discarded credit card offers, medical statements and other personal information.

More free shredding events and identity theft presentations will be available to the public during the AGO's Guard it! Washington Identity Theft tour to 14 cities across the state. Each day-long event focuses on outreach to businesses, schools and senior centers, with an evening public forum featuring identity theft experts from the Federal Trade Commission, American Association of Retired People and the AGO's Consumer Protection Division. Each event also features free shredding.



The LEGIT Shred-a-thon event in Bellevue

# Open, Accountable Government

The Washington Public Records Act is one of the strongest open government laws in the nation and reflects the desire of Washington citizens to know what their government is doing. A transparent and accessible government is essential to a successful free society, and fosters trust and confidence in government.

This year, the Attorney General requested several new laws to promote open government and access to public records, including notification in eminent domain, the creation of a “Sunshine Committee,” and restoration of intent language to the Public Records Act.

## Eminent Domain

It is difficult to learn your property may be taken for public use by eminent domain. But it is worse to not even know your property might be taken because you are not notified of the public meeting where your property will be discussed.

In the past there was no requirement for a government agency or utility to notify property owners or the general public of a pending open public meeting at which it will decide whether to take property by eminent domain, although some did voluntarily provide varying degrees of notice.

## AGO Open Government highlights since 2005

- Hiring a Special Assistant Attorney General for Open Government to serve as a Public Records Ombudsman
- Holding Public Disclosure Act forums in 15 cities statewide
- Drafting and publishing Model Rules
- Drafting and publishing Electronic Model Rules
- Proposing several new laws passed by the Legislature to strengthen and clarify the Public Records Act
- Proposing Eminent Domain law passed by the Legislature
- Proposing Eminent Domain Task Force created by the Legislature
- Proposing Sunshine Committee created by the Legislature

The new law passed this session requires a state agency, local government or utility considering the acquisition of specific properties by eminent domain to:

- Send a certified letter to the property owner of record on the county tax rolls notifying them of the open public meeting to decide the issue
- Publish a short newspaper legal notice before the meeting

This will help reduce the frustration of the eminent domain process and ensure it is conducted in the public eye.

## Sunshine Committee

In 2007, the Legislature passed a bill creating the Public Records Exemptions Accountability Committee, also known as the “Sunshine Committee.”

The committee is tasked with reviewing the more than 300 exemptions that have been added to the Public Records Act over the last 30 years. It will look at each exemption, discuss its importance and relevance and recommend to the Legislature that it be repealed, amended, modified, or left alone.

The make-up of the committee is key to ensuring its success, because differing views and perspectives will generate more thought and discussion. To achieve this balance, the committee includes representatives of local and state government, lawmakers, media, and citizens.

It is critical that the committee shine new light on old laws and rules that hinder the public’s access to records for no legitimate purpose.

## Intent Language

The Legislature also passed a bill this session to restore the voter-approved intent language to the Public Records Act.

Several important provisions of the old law were inadvertently left out of the new Public Records Act. To remedy this, the new law cleans up codification errors.

All of these new laws and efforts are good first steps in cleaning up the Public Records Act and restoring it to what the citizens of Washington intended it to be – a way to ensure government remains open and accountable.



The first meeting of the Sunshine Committee

# Legal Highlights

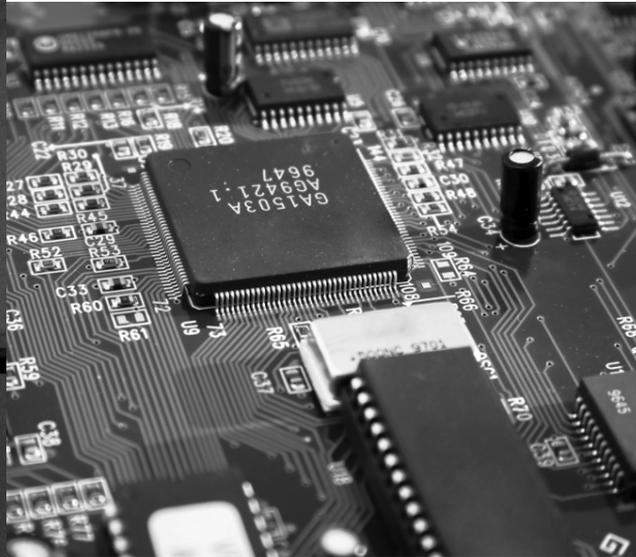


# Safeguarding Consumers

## Lending Practices

The Criminal Justice Division's Financial Crimes Unit handled the case of a loan originator who charged his customers for a mortgage payment acceleration program, but never enrolled any of them in the program. The defendant, charged with multiple counts of theft and money laundering, was found guilty by a jury of all counts. He was sentenced to 68 months in jail, \$70,600 restitution and \$10,000 in fines.

In another case, the Government Compliance and Enforcement Division dealt with an unlicensed payday lending business. The settlement provided that the lender pay 352 small loan borrowers \$191,506 in restitution, waive collection of an additional \$112,986 in outstanding principal, pay the Department of Financial Institutions \$8,483 in investigative costs, and receive a lifetime ban from the industry.



## Privacy Protection

In January, the Public Counsel Unit and Utilities and Transportation Division were instrumental in negotiating a nearly \$1 million settlement with Puget Sound Energy (PSE). The judgement was from a Utilities and Transportation Commission enforcement case arising from PSE's unlawful disclosure of customers' private account information to third parties for marketing purposes. PSE agreed to pay penalties of \$900,000, contribute \$95,000 in additional funds to their low-income program and develop and implement a new comprehensive privacy policy.

## Computer Chips

Washington AGO's Antitrust Division and other states sued major manufacturers of Dynamic Random Access Memory (DRAM) computer chips, alleging price-fixing. Several of the defendants pled guilty to federal criminal charges, however the criminal case provided no consumer or injunctive relief. Washington is seeking recovery of damages for state agencies and restitution for consumers. The case is filed in federal court in California. Settlements have been reached with two of the defendants, Samsung and Winbond.

## Living Trusts

The Consumer Protection Division's Senior and Vulnerable Consumer Unit entered into a consent decree with Coranda Living Trust Services that resolved allegations of unfair and deceptive practices in the sale of living trusts, reverse mortgages and other estate planning and financial products to senior citizens. The complaint alleged Coranda used high-pressure sales tactics to sell living trusts, misrepresented probate as extremely complex and difficult, and regularly told senior citizens that it often takes years for children to receive any inheritance from estates that go through probate.

# Legal Highlights



## Pharmaceutical Business Practices

The Antitrust Division handled a case involving claims that Organon, the maker of the antidepressant Remeron, misused a patent to prevent generic competition. A multi-state settlement was reached. In 2007, more than 1,000 residents received \$177,244 in restitution. Washington will also receive approximately \$88,000 for the state Medicaid program.

The Consumer Protection Division joined in an \$8 million multi-state settlement (of which Washington received \$200,000) with Bayer Corporation concerning its marketing of Baycol, a drug used to lower cholesterol. The drug was withdrawn from the market more than six years ago. The states alleged that Bayer failed to adequately disclose safety risks associated with Baycol.

In another multi-state action by the Consumer Protection Division, the states obtained a \$19.5 million settlement with Purdue Pharma, maker of OxyContin. Washington received \$719,500 for costs, fees and prescription drug abuse prevention from the agreement, which resolves allegations the company aggressively marketed its painkiller OxyContin to doctors while downplaying the risk of addiction.

## Deceptive Internet Sales Practices

The Consumer Protection High-Tech Unit sued three California-based businesses accused of violating Washington's Computer Spyware and Consumer Protection acts. Digital Enterprises of West Hills, doing business as Movieland.com, and its associated companies were accused of transmitting software that took control of computers by launching aggressive and persistent pop-ups that demanded payment for a movie download service. The software was installed after consumers signed up for a seemingly anonymous free trial for the service.

The office negotiated a settlement and the defendants agreed to cease offering anonymous free trials to Washington consumers for their movie download service. They must also receive express consent from Washington consumers before installing any billing software on the user's computer, disclose whether the software will cause any pop-ups and clearly state all important contract terms in any advertisement.

The High-Tech Unit has brought five lawsuits under the state's Computer Spyware Act passed in 2005.

# Protecting the Public

## Special Commitment Center

In 1990, Washington state established the first program in the country to civilly commit sexually violent predators to a Special Commitment Center, a secure confinement facility, for treatment after the conclusion of their prison terms. Because the program was a first, no case law existed to define what kind of treatment was required to operate a Constitutional program. In 1991, residents of the Special Commitment Center filed a civil rights lawsuit challenging the conditions of their confinement and the constitutionality of the program. The Special Commitment law was defended by the AGO's Social and Health Services Division.

In 1994, a federal court entered an injunction requiring the Department of Social and Health Services to take specific steps to establish a Constitutional program. After years of litigation, many improvements in the program, the establishment of secure community transition facilities, and completion of all other court-ordered improvements, the federal court dissolved the injunction in its entirety and closed the case in March 2007. This program, which is a critical tool for protecting the public from sexually violent predators, is now operating independent of court supervision and is no longer under the threat of closure or other sanctions.

## Global Horizons

In 2004, the Department of Labor and Industries (L&I) determined that Global Horizons, Inc., a business that provided temporary foreign and local agricultural workers to growers in Washington, violated numerous laws involving worker safety, health, hiring, housing, payments to workers, farm labor contractor licensing, and other requirements. With the help of the AGO's Labor and Industries Division, L&I denied the renewal of Global's farm labor contractor license. In May 2005, the Employment Security Department also discontinued recruitment and referral services to Global Horizons, without which Global could not obtain federal H-2A visas for foreign farm workers it had been bringing to Washington.

## Meth Dealer

At the request of the Cowlitz County Prosecuting Attorney, the AGO's Criminal Justice Division took over the prosecution of a case involving a meth dealer who shot and killed his supplier. After trial, the defendant was convicted of Murder in the Second Degree and Unlawful Possession of a Firearm, and was sentenced to 36 years in prison.

## Sexually Violent Predator

A retired military officer was civilly committed as a sexually violent predator by the Criminal Justice Division's Sexually Violent Predator Unit for offenses that included grooming and repeatedly sexually assaulting the daughter of a fellow officer. He was also convicted in California, in 1983, of three counts of Unlawful Sexual Intercourse with a 14-year-old girl. His most recent conviction in Washington, in 2001, involved his sexual abuse of a 21-year-old woman, who he had been molesting since the age of eight.



# Legal Highlights



## Saving Money for Taxpayers

### State Investment Board

Attorneys from the Government Operations Division review complex investment agreements to ensure the best terms for significant investments by the Washington State Investment Board (WSIB) in private equity and real estate. Funds invested by the WSIB include employee pension funds and the workers' compensation trust fund. Earnings on these investments ensure less public tax dollars are needed to fund public employee pensions and also reduce the employers' contribution for workers' compensation taxes.

### Contractor Bonds

Contractors who do business in Washington must obtain a surety bond or open an assigned savings account to protect the homeowner. The state tax agencies can collect unpaid taxes against a portion of this bond by filing a lawsuit against the surety company or the contractor's bank account. The Bankruptcy and Collections Unit opened 801 contractor bond files during the fiscal year, the most in its history, and recovered \$2,533,582.

### Medicaid Fraud

A Department of Social and Health Services case resource manager and an in-home care provider used a billing scheme that defrauded the state out of tens of thousands of dollars. The case manager approved his accomplice as a care provider for three Medicaid eligible recipients. The provider then billed the state for services he did not provide. As a result of the work done by the Criminal Justice Division's Medicaid Fraud Control Unit, the case manager pled guilty to seven counts of Theft in the First Degree, and was sentenced to 22 months in prison and \$43,297 in restitution.

### Geoduck Poaching

The Fish, Wildlife and Parks Division favorably settled a civil action filed in 2005 against Clear Bay Fisheries, Inc., a Canadian corporation. The lawsuit, filed under the Criminal Profiteering Act, alleged that Clear Bay and its principals were accomplices and co-conspirators in the theft of 1.2 million pounds of geoduck from state lands in South Puget Sound. Under the settlement agreement, Clear Bay Fisheries paid \$112,500 in restitution to the state, released their liens in the vessel and were permanently banned from engaging in the shellfish business in Washington.

## Misuse of State Resources

In a case defended by the Government Compliance and Enforcement Division, the Court of Appeals for Division I affirmed the constitutionality of the state prohibition against using public facilities for political purposes. The court determined that when teachers used school mailboxes and computer systems for ballot measure signature gathering, they violated the statute and that the penalty assessed by the Public Disclosure Commission was appropriate.

## Improving Public Health and the Environment

### Pacific Health Center, Inc.

The Department of Health (DOH), with the help of the AGO's Agriculture and Health Division, took injunctive action against Pacific Health Center, Inc. for the unlicensed practice of medicine, naturopathy and acupuncture. Pacific Health Center, Inc. operated for more than 15 years, during which time it had been offering to test, diagnose and treat various conditions using electrodermal testing and homeopathic remedies. In October 2006, the Court of Appeals affirmed the injunctive action taken by DOH.

### Oil Spill

The Ecology Division's work on oil spill prevention and response matters over the last fiscal year included negotiating a settlement with ConocoPhillips on behalf of the Department of Ecology for a \$540,000 penalty related to an October 2004 oil spill in Dalco Passage.

### Derelict Vessel Act

In the first case interpreting the Derelict Vessel Act, the Thurston County Superior Court upheld the decision made by the Department of Natural Resources (DNR), represented by the AGO's Natural Resources Division, to remove a derelict vessel from Budd Inlet. The boat was in immediate danger of sinking and breaking up and posed a threat to the environment. The court ruled that DNR had authority to remove the boat from the beach and obtain permanent custody of the boat, and the owner was liable for reasonable costs associated with removal, as well as attorneys' fees.

## Pipeline Safety

In May 2007, the Utilities and Transportation Commission proposed a \$2 million penalty against Puget Sound Energy (PSE) for failure to keep accurate and complete records of suspected gas leaks. After reviewing the utility's records over a four-year period, commission staff alleged that PSE's contractor violated recordkeeping rules by intentionally filling out leak-inspection reports with incorrect information or changing those reports to reflect compliance. During the audit, 209 violations were identified, dating from January 2002 to December 2005.

Although the pipeline safety records were prepared and maintained by the contractor, PSE is bound by law to ensure that its pipeline system complies with state pipeline-safety requirements. If the commission decides to penalize PSE, the utility would not be allowed to recover the penalties from ratepayers in any future rate case.



# Office Overview



# Washington State Attorney General's Office Overview



## AGO Mission

As an independent constitutional office and legal counsel to state government, we serve the citizens of Washington with the highest standards of excellence, ethics and effectiveness.

## AGO Vision

The Office of the Attorney General will be the best public law office in the United States, proudly contributing to the greatness of Washington.

## AGO Values

Excellence and effectiveness through:

- Transparency
- Honesty
- Respect
- Innovation
- Competition
- Ethics

The Washington AGO is made up of 26 legal divisions located in 12 different cities across the state. The office consists of more than 500 attorneys and over 700 other employees providing legal services to more than 230 state agencies, boards and commissions.

According to state law, the Office of the Attorney General is responsible for representing the state of Washington, its officials, departments, boards, commissions, agencies, colleges, and universities. Its specific duties include:

- Representing the State of Washington before the Supreme Court, the Court of Appeals and trial courts in all cases that involve the state's interest.
- Advising the Governor, members of the Legislature and other state officers on legal issues, and, when requested, giving written opinions on constitutional or legal questions.
- Protecting the public by upholding the Consumer Protection Act, enforcing laws against anti-competitive business practices, representing the public interest in utility matters, and protecting the environment as Counsel for the Environment in the siting of energy facilities.
- Investigating and prosecuting persons accused of crimes if requested to do so by the Governor or a county prosecutor.

# Office Overview

## Agriculture and Health

The Agriculture and Health Division provides legal advice and litigation services to:

- Department of Agriculture
- Department of Health and its associated boards, commissions and committees
- State Board of Health
- Health Care Authority
- 25 Commodity Commissions
- Department of Community, Trade and Economic Development (CTED)
- Department of Archeology and Historic Preservation
- Northwest Interstate Compact on Low-Level Radioactive Waste Management
- Home Care Quality Authority
- Life Sciences Discovery Fund Authority

The division oversees health care practitioners and facilities, and regulation of activities posing threats to human health, such as food processing, the safety of public drinking water and the disposal of low-level radioactive materials.

The division also advises CTED in the distribution of funds and administration of programs designed to improve the state's economic development.

## Antitrust

The Antitrust Division enforces state and federal antitrust laws, protecting consumers and businesses from anti-competitive practices such as price-fixing, bid rigging, monopolization, and other conduct that interferes with

fair competition. The majority of the division's work focuses on representing consumers and state agencies in litigation seeking redress for violations of antitrust laws. The division also provides legal counsel to state agencies concerning antitrust-related matters.

## Bankruptcy and Collections

The Bankruptcy and Collections Unit encourages voluntary compliance with the state's tax laws by supporting the efforts of state agencies to aggressively pursue money owed to the state. Most of the money is owed for delinquent sales and business and occupation taxes, industrial insurance premiums and unemployment fund contributions.

The unit gives priority to representing the departments of Revenue, Labor and Industries and Employment Security. The vast majority of the unit's work consists of handling bankruptcy litigation in cases under Chapter 11 and Chapter 13 of the Federal Bankruptcy Code. The unit also handles a significant number of collection actions against the bonds of contractors who are delinquent in tax payments.

In conjunction with representing various state agencies in bankruptcy and collection actions, the unit devotes substantial resources to training tax agency personnel who handle bankruptcy and collections claims.

## Complex Litigation

The Complex Litigation Unit assists AGO divisions with litigation that requires unique resources because of complexity or sensitivity. The work is hands-on, collaborative, and typically includes class actions, multi-party lawsuits and multi-claim lawsuits. The unit has assisted in cases covering issues such as Medicaid funding, employment, the environment, elections, foster care, unfunded mandates, pensions, and school funding. These complex and costly cases represent significant exposure for state agencies.

## Consumer Protection

The Consumer Protection Division enforces consumer protection laws to help keep the Washington marketplace free from unfair and deceptive practices. The division



investigates and files legal actions to stop these practices, recovers refunds for consumers and imposes penalties on offending businesses.

The division also facilitates the informal resolution of consumer problems by notifying businesses of written complaints and mediating them. It provides information and education to businesses and to the public on consumer rights and issues, and sends out alerts and press releases when consumers or businesses are targets of fraudulent or predatory activities.

The division is also responsible for the administration of Washington's Lemon Law for new motor vehicle warranty enforcement. The services include arbitration to resolve consumer and manufacturer warranty disputes, consumer and industry education and enforcement of manufacturer and dealer obligations.

## Criminal Justice

The Criminal Justice Division provides advice and representation to the Washington State Patrol, Department of Corrections, Indeterminate Sentence Review Board, Criminal Justice Training Commission, and Sentencing Guidelines Commission. Division staff also advise the Governor's Clemency and Pardons Board, and represent the Governor in all extraditions and detainers.

The division also conducts criminal investigations and prosecutions at the request of local authorities and maintains a one-of-a-kind crime information database that provides assistance to state and local jurisdictions in crime investigations.



Finally, the division represents the state in the Sexually Violent Predator Civil Commitment process in 38 of 39 counties.

## Ecology

The Ecology Division represents the Department of Ecology, Puget Sound Partnership, Pollution Liability Insurance Agency, the State Conservation Commission, and the Oil Spills Advisory Council. The division works to resolve environmental problems and disputes and provides advice and representation before the court and administrative tribunals on permitting, legislation, rule-making, and enforcement matters.

The largest areas of the division's practice are water resources allocation and management issues and cleanup of contaminated sites. The division also assists the Department of Ecology in oversight of the United States Department of Energy's cleanup of the radioactive and hazardous waste at the Hanford Nuclear Reservation.

## Education

The Education Division provides a full range of legal services to state education agencies from K-12 through higher education. Client agencies include the Office of the Superintendent of Public Instruction, the State Board of Education, the Professional Educator Standards Board, the Washington State School Directors Association, three regional universities, The Evergreen State College, 28 community colleges, five technical colleges, the Higher Education Coordinating Board, the State Board for Community and Technical Colleges, the Council of Presidents, and the Center for Information Services.

# Office Overview

## Fish, Wildlife and Parks

The Fish, Wildlife and Parks Division represents the Washington Department of Fish and Wildlife and the State Parks and Recreation Commission. The division also represents the state as a whole in certain complex natural resource litigation and sometimes assists local prosecutors in the enforcement of fish and wildlife criminal provisions.

Legal services include advice and litigation, and typically relate to fish and wildlife resource management, endangered species, habitat protection, tribal issues, hydropower licensing, law enforcement, civil forfeiture, land acquisition and management, land use, contracts, regulatory permitting, and administrative procedure.

## Government Compliance and Enforcement

The Government Compliance and Enforcement Division provides representation and legal advice to the:

- Auditor
- Insurance Commissioner
- Department of Financial Institutions
- Gambling Commission
- Horse Racing Commission
- Human Rights Commission
- Office of Minority and Women's Business Enterprises
- Joint Legislative Audit and Review Committee
- Tax Preference Board

In addition, the division prosecutes enforcement and forfeiture violations for the Department of Financial

Institutions, Gambling Commission, Horse Racing Commission, Human Rights Commission, Office of Minority and Women's Business Enterprises, Washington State Patrol, the Public Disclosure Commission, State Lottery, Liquor Control Board, State Executive Ethics Board, Legislative Ethics Board, and Professional Guardian Board of the Administrator for the Courts. It also prosecutes actions for health care providers licensed by a board or commission on behalf of the Department of Health.

## Government Operations

The Government Operations Division handles the litigation for, and provides legal advice to, more than 40 state agencies, boards and commissions and elected officials. Some of the division's larger clients include:

- Department of Retirement Systems
- General Administration
- Department of Information Services
- Department of Personnel
- Military Department
- State Investment Board
- Treasurer
- Energy Facility Site Evaluation Council
- Office of Financial Management
- Convention Center
- Some divisions and programs of the Secretary of State

Attorneys in this division are frequently consulted by colleagues on issues relating to public pensions, contracts, real estate matters, computer acquisitions, software licensing, purchasing of goods and services, and municipal finance.

## Labor and Industries Division

The Labor and Industries Division provides litigation support and legal advice to the Department of Labor and Industries (L&I). The members of this division handle a high volume of industrial insurance cases and cases involving workplace safety, wage claims, labor issues, contractor and building issues, and crime victim claims. Division attorneys also represent L&I in regulatory actions and provide client advice.



## Labor and Personnel

The Labor and Personnel Division provides centralized employment and personnel related legal services and expertise to Washington state agencies, boards, commissions, and institutions of higher education. The attorneys in the division provide substantial client advice and training on a variety of employment issues, including wage and hour laws, labor relations, disability and reasonable accommodation, employee misconduct and discipline, and the prevention of discrimination and sexual harassment.

The division also provides legal representation before a number of administrative personnel boards, labor commissions and superior and appellate courts.

## Licensing and Administrative Law

The Licensing and Administrative Law Division advises and represents two large state agencies, the Department of Licensing and the Employment Security Department, and several smaller state agencies, including the Accountancy Board, Liquor Control Board, Lottery Commission, Executive Ethics Board, Judicial Conduct Commission, Environmental Hearings Office, and the three Growth Management Hearings Boards. A significant portion of the division's work is administrative litigation and defending appeals of agency orders in state courts.

Attorneys in the division have considerable legal and practical expertise in areas such as the Administrative Procedure Act, public records, open public meetings, due process, and regulatory enforcement of professional licensing standards.



## Natural Resources

The Natural Resources Division represents the Commissioner of Public Lands, Department of Natural Resources, Board of Natural Resources, Forest Practices Board, and other related boards and committees.

The division provides a broad spectrum of client advice, dispute resolution and litigation services to an agency that manages more than 5 million acres of forest, range, commercial, agricultural, and aquatic lands. The agency has fire protection and public resource protection responsibilities on 12 million acres of state and private forest lands. The division also supports the agency in its efforts to regulate surface mine reclamation, provide technical assistance for forestry and mining and administer several programs designed to protect riparian areas, Natural Resource Conservation Areas and Natural Area Preserves.

## Public Counsel

The Public Counsel Unit represents consumers who would not otherwise have an effective voice regarding the rates, services and business practices of the investor-owned telephone, electric and natural gas utilities operating in the state—such as Qwest, Verizon Northwest, Puget Sound Energy, and Avista.

Public Counsel advocates for the interests of consumers in major rate cases, mergers and other cases and rulemakings before the Washington Utilities and Transportation Commission; through technical study groups; in court appeals; and before the Legislature and other policy makers.

The office maintains contact with the public through a citizen advisory committee, community organizations, public hearings, personal contact, and letters and telephone calls from consumers in major cases.

# Office Overview

## Regional Services

The Regional Services Division consists of seven offices that are the “face of the AGO” in Bellingham, Everett, Port Angeles, Vancouver, Kennewick, Yakima, and Wenatchee. These offices provide a variety of legal services for a number of client agencies, such as the Department of Social and Health Services, Department of Labor and Industries, Employment Security Department, and Department of Licensing.

The offices also represent and advise educational institutions, several Educational Service Districts, the School for the Deaf, and the School for the Blind.

## Revenue

The Revenue Division provides legal services to the Department of Revenue (DOR), which administers and collects the state’s major excise taxes. The division also provides legal services related to DOR’s administration of the state’s property tax system, its assessment of operating property owned by public utilities and its administration of the state’s estate tax and unclaimed property law. The division’s principal legal activity involves defending DOR against excise tax refund claims.

The division also handles property and miscellaneous tax litigation and advises DOR on tax and general governmental matters.

## Social and Health Services - Olympia

The Social and Health Services Division in Olympia provides legal services to the Department of Social and Health Services, which administers a variety of federally and state-funded programs to protect the general public and assist those who are unable to provide for themselves. Programs include income and medical assistance, children’s services, child support, mental health services, developmental disabilities, juvenile rehabilitation, alcohol and drug rehabilitation, vocational rehabilitation, nursing home surveys, adult protective services, home and community care services, and other related community social service program activities. The Social and Health Services Division also provides legal support to the Department of Veterans Affairs and the Department of Services for the Blind.

Four other divisions of the Attorney General’s Office also provide legal services to DSHS, primarily handling juvenile dependency and parental rights termination cases.

## Social and Health Services - Seattle

The Social and Health Services Division in Seattle provides legal representation to the Department of Social and Health Services and the Department of Early Learning before the appellate and superior courts and administrative tribunals, primarily in King County. The work of this division is focused on the protection of children and vulnerable adults.

The division handles a high volume of juvenile dependency, adult protective services and day care, foster home and adult family home licensing cases.

## Solicitor General

The Solicitor General’s Office provides the following services within the Attorney General’s Office:

- Coordinates the office’s involvement with cases in the United States Supreme Court.
- Assists AGO attorneys in preparing and presenting appellate cases in state and federal court, and directly handles select appeals.
- Prepares and issues Attorney General Opinions.



- Coordinates the office's involvement with amicus curiae "Friend of the Court" briefs in all courts.
- Carries out the Attorney General's duties with respect to the preparation of ballot titles and explanatory statements, and represents the state in litigation involving powers of initiative and referendum.
- Coordinates legal advice on issues of statewide significance.
- Serves as legal counsel to the Secretary of State, Lieutenant Governor and Administrative Office of the Courts.

## Spokane

The Spokane Division provides a wide range of legal services in Eastern Washington to many agencies and institutions of state government, such as the Department of Social and Health Services, Department of Labor and Industries, Department of Licensing, Department of Corrections, and various institutions of higher education. Nearly all consumer protection functions for the eastern half of the state are located in the Spokane office.

Employees in the Spokane office also defend some tort lawsuits brought against the state.

In addition, the division handles Medicaid fraud criminal cases in Eastern Washington, while other investigators assist local jurisdictions in investigating homicide and other major crimes.

## Tacoma

The Tacoma Division provides an array of legal services in matters arising out of Pierce and Kitsap counties to many agencies of state government, including the

departments of Social and Health Services and Labor and Industries, as well as Licensing and Administrative Law work. In addition, employees in Tacoma handle consumer protection functions, including enforcement, mediation and outreach and education. This past year, the Tacoma Division expanded to include a Torts section to defend personal injury lawsuits filed against the state in Pierce and Kitsap counties.



## Torts

The Torts Division defends tort claims and lawsuits against all state agencies, officers and employees. The majority of cases are based on actions brought under theories of liability for state actions, such as highway design, release of inmates, injuries on state property, medical malpractice, employment, child care and custody, auto accidents, maritime injuries, false arrests, and unreasonable force.

Torts attorneys also provide legal and risk management advice to the Office of Financial Management and state agencies on tort matters.

## Transportation and Public Construction

The Transportation and Public Construction Division represents the Washington State Department of Transportation as it designs, constructs, operates, and maintains Washington's highway system and other transportation operations, such as ferries, rail, aviation, freight transport, and public transportation. The division's attorneys support transportation projects from early project development through operation of transportation facilities: advice on environmental review and innovative contracting, defense of environmental

# Office Overview

challenges, acquisition of rights-of-way through eminent domain for highways and ferry projects, and resolution of construction claims. The division also provides advice in real estate and tribal issues. Other client agencies include several transportation-related boards and commissions.

Division attorneys use their expertise in these areas to support the construction activities of other state agencies, including the Department of Corrections, Department of Fish and Wildlife, Washington State Parks, and colleges and universities.

## University of Washington

The University of Washington Division provides legal services to the University of Washington, including campuses in Seattle, Bothell and Tacoma, more than 35,000 students, 15,000 employees, and two major medical centers.

The division provides legal advice and representation across a broad spectrum, including employment law, labor relations, student affairs, real estate, business law, intercollegiate athletics, public finance, bonds, intellectual property, tax, benefits, constitutional law, gifts and trusts, and health care law. The division's mission is to serve the university - and the students, patients and citizens who benefit from its teaching, healthcare and research - by assuring that the university receives legal advice and representation that meets the highest professional standards.

## Utilities and Transportation

The Utilities and Transportation Division provides legal services to the Washington Utilities and Transportation Commission. The commission regulates the rates, services and practices of a wide range of:

- Telecommunications (excluding wireless, Internet and cable companies)
- Electricity and natural gas
- Solid waste collection
- Water
- Pipelines
- Railroad carriers and facilities
- In-state household movers
- Private ferries
- Bus companies

New market conditions, technology, federal and state laws, and consumer expectations make for an ever-changing policy and legal landscape.

## Washington State University

The Washington State University Division provides a full range of legal services to the state's land grant university. The division provides advice on a host of legal issues, many of which are unique to an academic environment.

Attorneys provide assistance relating to:

- University research and intellectual property
- The university's statewide Extension Program (including 4-H programs)
- Athletics and NCAA compliance
- Various student rights and programs
- State residency for tuition purposes
- All aspects of personnel/employment law, including faculty tenure and promotion
- University development
- Environmental health and safety
- Public contracting
- Constitutional rights
- Veterinary training and services
- Real estate and other transactions
- Capital planning and development



Along with the 26 legal divisions, there are several administrative units that make up the Attorney General's Office. These units provide non-legal services to the office.

## Financial Services

The Financial Services Unit provides centralized financial services for the agency including:

- **Accounting:** Payments of vendors and travel vouchers, research and correction of expenditures, fund reconciliation, receipt of payments, and overall accounting support to the agency and statewide accounting reporting.
- **Budgeting:** Timekeeping and billing support, agency resource acquisition and distribution through budget requests, interagency receivable agreements and fiscal notes and monitoring.
- **Contracting:** Contracting training and consultation, reconciliation, payment, monitoring, and compliance for agency payable contracts. This also includes enterprise contract reporting.
- **Payroll:** Agency processing of all staff payroll, reconciliation of benefits, payments to other agencies, and leave attendance.
- **Purchasing:** Agency purchasing consultation, research, ordering and tracking of various vendors and commodities, and compliance with state purchasing rules and regulations.



## General Services

The General Services Unit coordinates the AGO motor pool, conference rooms and equipment reservations for the Tumwater office. The unit also provides centralized reception and mail services, assists with facility matters, prepares ID badges for all AGO employees and maintains security access in Tumwater.

## Human Resources

The Human Resources Unit provides comprehensive personnel-related programs and services to managers, employees and candidates for employment. The unit's goal is to assist managers in hiring and retaining the best and brightest in the legal field.

Some of the programs and services offered by the unit include:

- Strategic Planning
- Policy Development and Compliance
- Mediation
- Recruitment
- Retention
- Compensation
- Classification
- Personnel Records
- Performance Management
- Training and Development
- Labor Relations

## Information Services

The Information Services Unit manages the delivery of all AGO computer and telephone network infrastructures and the operation of all network hardware and software platforms. Data security and disaster recovery are key to the maintenance and operations of the AGO's voice and data systems. The unit ensures compliance with state governance policies and standards to assure that all electronic services delivered function properly and securely.

# Office Overview

## Office Support Services

Office Support Services is a central unit that oversees the management of AGO archiving, surplus, fleet, and copy center services. The unit provides a broad array of assistance that includes:

- Support for the preparation and reproduction of files for litigation work
- Scanning and creating a variety of print and electronic materials used internally and outside the agency
- Comprehensive audio and video services
- Mail and delivery services for the Olympia area

## Public Affairs

The Public Affairs Unit is an award-winning group of communications and graphic design professionals who develop and implement agency-wide internal and external communications strategies. The unit conducts proactive and responsive media relations, provides AGO media training and researches, drafts and often schedules AG McKenna's speeches and presentations. The unit also publicizes the work of the AGO both internally and externally through news releases, guest columns, radio feeds, the AGO intranet, the AGO web site, presentations, newsletters, and the annual report.

## Public Records and Constituent Services

The Public Records and Constituent Services Unit oversees four major functions for the office:

- Processing and responding to all public records requests made to the AGO
- Processing all garnishments served by statute on the AGO and answering any questions that arise out of the process
- Assignment, entry and distribution of all mail addressed to the Attorney General, as well as e-mail sent through the AGO website
- Accepting service of process, and entry and assignment of the cases served at their location to the proper division for handling

## Research Center

The AGO Research Center assists AGO staff with their reference and research needs. This includes reference and research support, specialized legal research training, system administration, acquiring and cataloging research materials, tracking expense data, generating reports, and contract negotiations for online research services.





# United States Supreme Court Victories

## Washington v. Washington Education Association

In June 2007, the Supreme Court upheld a provision of Initiative 134 against a First Amendment challenge in *Washington v. WEA*. The law requires unions to obtain prior permission from non-members before using their representation fees for political purposes.

This is an important case for the First Amendment rights of workers. By approving I-134, voters said they did not want workers, who are required to pay union fees, to be required to fund union political activities without their prior consent.



AG Rob McKenna speaks with the media after arguing his first case before the U.S. Supreme Court

## U.S. v. Atlantic Research Corporation

In June 2007, unanimously the Supreme Court affirmed that the federal Superfund law authorizes individuals and companies who voluntarily clean up hazardous waste contamination to recover a share of the costs from others who are liable, such as the federal government. The decision ensures that many contaminated sites which might have been unaddressed for a significant time will be cleaned up.

## Uttecht v. Brown

In June 2007, the Supreme Court reversed the Ninth Circuit Court of Appeals decision in *Uttecht v. Brown* which had invalidated the imposition of the death penalty because of the removal of a potential juror based on his views regarding the death penalty. The Supreme Court held that the juror was properly removed based on the juror's statement concerning the death penalty, the judge's opportunity to view the demeanor of the juror and the fact that defense counsel stated no objection to removal of the juror.

## Burton v. Stewart

In January 2007, the Supreme Court ruled in the state's favor in *Burton v. Stewart*, holding that the federal district court lacked jurisdiction over Burton's habeas corpus petition challenging his sentence for rape, robbery and burglary. The court vacated the Ninth Circuit's opinion and remanded with directions to dismiss the petition.

# Awards and Honors

## Best Brief Award

The National Association of Attorneys General presented its United States Supreme Court Best Brief Award to the Washington Attorney General's Office for its Reply Brief for Petitioner State of Washington in *Washington v. WEA*, which was prepared by Attorney General Rob McKenna, Solicitor General Maureen Hart, Deputy Solicitor General Bill Collins, Senior Assistant Attorney General Linda Dalton, and Assistant Attorney General Tom Wendel. NAAG Best Brief Awards recognize excellence in brief writing in the United States Supreme Court by state attorneys.

## Kempsky Award

Deputy Attorney General Shirley Battan received the Nelson Kempsky Award for outstanding leadership and management from the Conference of Western Attorneys General. The award recognizes managers who make substantial contributions to individual offices of the attorney general or to AG offices in general, who develop beneficial management concepts and practices and who provide new ideas that benefit all AG offices.

## Governor's Leadership Award

Senior Assistant Attorney General Michael Shinn received the 2007 Governor's Award for Leadership in Management, which gives special recognition to managers who have demonstrated excellence in carrying out their responsibilities.

## Domestic Violence Recognition Awards

Attorney General Rob McKenna received two awards this year in recognition of his work to eradicate domestic violence, an Envision Award from the WomenSpirit Coalition and the Washington Women Lawyers' Special Contribution to the Judiciary Award.

## WAGGY

The Attorney General's Office website received the award for "Best Overall Website" in the Conference of Western Attorneys General WAGGY Award competition for outstanding attorney general websites. This award recognizes achievement in visual impact, layout design, ease of use, unique attributes, high quality content, and how well the site serves the needs of the public and attends to current issues for consumers.

## Super Lawyers

Chief Deputy Brian Moran, Solicitor General Marnie Hart, Deputy Solicitor General Bill Collins, and Deputy Solicitor General Jim Pharris were honored by Washington Law & Politics as 2007 "Super Lawyers" in Washington.

Washington Law & Politics recognizes Washington lawyers who have attained a high degree of peer recognition and professional achievement. Only five percent of the lawyers in Washington are named Super Lawyers.

## Rising Stars

Assistant Attorney General Maia Bellon, Assistant Attorney General Mike Dunning and Assistant Attorney General Michael Young were on the Washington Law & Politics 2006 list of Washington Super Lawyers – "Rising Stars."

Rising Stars are outstanding young attorneys in Washington who are age 40 or younger or have been in practice for 10 years or less. Only 2.5 percent of the attorneys in Washington are selected as Rising Stars.

## Communicator Awards

Public affairs staff members Janelle Guthrie, Kristin Alexander, Scott Peterson, and Sarah Lane won Communicator Awards of Excellence and Distinction for their work on a meth editorial, consumer column and the 2006 annual report (which also received honors in the government category of the League of American Communications Professional's Annual Report Competition).

This award competition is the leading international awards program recognizing creative excellence in the communication field. The Award of Distinction is presented for projects that exceed industry standards in quality and excellence. The Award of Excellence is given to those entries whose ability to communicate puts them among the best in the field.



(Left) Deputy AG Shirley Battan with the CWAG Kempsey Award, AG Rob McKenna and Nelson Kempsey (for whom the award is named)

# Office Locations

## Clinic Administrator of the Year

Paralegal Diane Partridge was selected by the Thurston County Volunteer Legal Services staff and Board of Directors as the Clinic Administrator of the Year for 2007. Diane has volunteered over 100 hours of her time at nearly 40 legal clinics and assisted with the Family Support Center auction for the past two years.

## Aspen Rodel Fellowship

Attorney General Rob McKenna was selected by the Aspen Institute for the Aspen Rodel Fellowship in Public Leadership. The new program honors public leaders the institute has identified as “the true rising stars” of American politics. McKenna is one of 24 young elected officials selected for this two-year fellowship, designed to bring together the very best of the nation’s emerging leaders to discuss broad issues of democratic governance and effective public service.

## Quick Award

Senior Counsel Jerri Thomas was recognized with a “Quick Award” from Valoria Loveland, Director of the Washington State Department of Agriculture, for her outstanding problem-solving skills, professionalism and endurance in significantly contributing to the success of the Energy Freedom Loan Program. This program distributed \$13 million in loans to private-public partnerships for bioenergy projects.

## CFD Team Award

The Tacoma Division’s Combined Fund Drive Committee (Senior Counsel Gretchen Leanderson, Assistant Attorney General Renee Morioka, Assistant Attorney General Lucretia Greer, Administrative Office Manager Margaret Graves Esteve, Legal Assistant Jeffrey Barge, and Office Support Supervisor Debbie Herdt) was recognized with the Pierce County 2006 Team Award by the Combined Fund Drive.



### Bellingham

103 E Holly St, Ste 310  
Bellingham, WA 98225  
(360) 676-2037

### Everett

3501 Colby Ave, Ste 200  
Everett, WA 98201  
(425) 257-2170

### Kennewick

500 N Moran St, Ste 1250  
Kennewick, WA 98336  
(509) 734-7285

### Olympia

1125 Washington St SE  
Olympia, WA 98504-0100  
(360) 753-6200

### Port Angeles

115 E Railroad, Ste 306  
Pt. Angeles, WA 98362  
(360) 457-2711

### Pullman

332 French Admin Bldg  
Pullman, WA 99164-1031  
(509) 335-2636

### Seattle

800 Fifth Ave, Ste 2000  
Seattle, WA 98104  
(206) 464-7744

### Spokane

1116 W Riverside Ave  
Spokane, WA 99201-1194  
(509) 456-3123

### Tacoma

1019 Pacific Ave  
Tacoma, WA 98402  
(253) 597-3832

### Vancouver

1220 Main St, Ste 549  
Vancouver, WA 98660  
(360) 759-2100

### Wenatchee

18 S Mission, Ste 300  
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### Yakima

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