WASHINGTON STATE OFFICE OF THE ATTORNEY GENERAL
FY 2008 ANNUAL REPORT

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SAVINGS AND RECOVERIES - Fiscal Year 2008*

In addition to providing intangible benefits to the citizens of Washington such as 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:

Antitrust
- Litigation Results: $3,157,555
- Cost and Fee Recoveries: $309,232

Consumer Protection
- Consumer Resource Center “Mediation” Results: $6,634,591
- Manufactured Housing Dispute Resolution Program “Resolution” Results: $120,757
- Litigation Results: $11,789,237
- Lemon Law Results: $3,575,374
- Cost and Fee Recoveries: $1,968,230

DSHS Office of Financial Recovery: $2,190,443

Medicaid Fraud Control Unit Fines and Recoveries: $16,320,925

Bankruptcy & Collections: $7,198,332

Tobacco Settlement Payments: $122,478,868

Total saved or recovered: $175,743,544

* July 1, 2007 – June 30, 2008

The AGO Torts Division defended against cases claiming more than $460 million.

The AGO Torts Division held state torts payouts to $46 million.
DEAR FELLOW WASHINGTONIANS,

I am proud to present the 2008 Fiscal Year Report from the Attorney General’s Office.

This has been a successful year for the AGO and for our clients, the citizens of Washington state. Although, we are prohibited from representing individual private citizens, we represent your interests as a whole by protecting:

- Consumers, businesses and rate payers;
- Communities, families, children, and seniors;
- The environment and natural resources;
- Workers;
- Tax dollars;
- Open government; and
- Washington’s constitution, laws and initiatives.

We accomplish these great tasks through education, legislation and enforcement. This report summarizes the AGO’s efforts in each area and highlights some of our legal accomplishments from Fiscal Year 2008.

It is my extreme pleasure to serve as Washington’s Attorney General. I have the honor of leading a high-performing office with dedicated state employees, who are committed to serving the citizens of Washington and protecting the people, places and institutions they value most.

Sincerely,

Rob McKenna

Attorney General
AWARDS AND HONORS

ACE Award
The Consumer Protection Division and Public Affairs Unit won an ACE Award for the “Guard It! Washington” identity theft prevention tour from the National Association of Consumer Agency Administrators. This award is given to educational programs based on effectiveness of message, accuracy and usefulness of information, creativity, value to the community, and program results.

The “Guard It! Washington” tour also won a Totem Award for community outreach from the Puget Sound chapter of the Public Relations Society of America.

Productivity Award
Information Technology Specialists Kami Johnson and Melanie Palmer were recognized by the Washington State Productivity Board for their implementation of a plan to pool AGO cell phone user minutes into one large account instead of having several different accounts for each division. This pooling of cell phone minutes greatly simplified the processing of the monthly bill by administrative staff and saved the agency $10,000 a month on cell phone costs.

Clinic Administrator of the Year
Paralegal Mary Valley was selected by Thurston County Volunteer Legal Services staff and Board Directors as the Clinic Administrator of the Year. Mary was instrumental in the development and implementation of the Mason County satellite clinic and provided services at 40 clinics in the past year in Mason and Thurston counties.

Outstanding Achievement Award
The Consumer Protection Division received an Outstanding Achievement Award from the Interactive Media Council for work on the Ad Council Youth Driving/SUV Safety Web site. The council judges each site for excellence in design, content, feature functionality, usability, and standards compliance. To win, the site must excel in each criterion, rise above other sites and deserve to be a top choice for the target market.

Top 25 Doers, Dreamers and Drivers
Attorney General Rob McKenna and Information Services Director Andy Hill earned national recognition for their use of technology to improve government when Government Technology named the pair to its seventh annual Top 25 Doers, Dreamers and Drivers list.

The list showcases the work of public-sector professionals from around the country. In compiling the list, Government Technology looks for individuals who have strived to implement change while overcoming obstacles such as tight budgets and politics.

Excellence Award
Sue Bellevue, Chief Research Librarian at the AGO Research Center, received the 2007 Excellence Award from the Law Librarians of Puget Sound. The award recognizes an individual
member who has not only “gone the extra mile” but also has provided awareness about certain issues that impact the law librarian profession in their communities.

Friend of Children Award
Attorney General Rob McKenna was honored with the Washington State PTA’s “Friend of Children” Award. The award is the highest given by the Washington State PTA, and is presented to a group or individual performing outstanding work on behalf of children throughout the year.

McKenna was recognized by the PTA for his Internet safety efforts and initiatives, specifically his work to protect children from the dangers of online predators, spyware, child pornography, and cyberbullying.

Outstanding Mentor
Senior Counsel Catherine Hendricks was honored as the King County Bar Association Young Lawyers Division’s Outstanding Mentor. The award is presented to attorneys who have made substantial contributions to teaching, training or professional development for one of more young lawyers.

Hendricks has supervised nearly two dozen law clerks, assisting them in acquiring appropriate projects and teaching them to manage their workload. In addition to mentoring law clerks at the AGO, she also mentors law students at the University of Washington School of Law.

Vision Award
The AGO’s 2007 Annual Report, produced by Public Information Officer Sarah Lane and Graphic Designer Scott Peterson, won the Bronze Vision Award in the government category from the League of American Communications Professionals. The 2007 report took fourth place overall for all government publications nationwide -- scoring 92 out of 99 total points.

The 2007 Annual Report also won a Communicator Award.

Law Firm of the Year
The Pierce County chapter of the National Association of Legal Secretaries (NALS) recognized the AGO’s Tacoma Torts Section as its Law Firm of the Year. Every year, NALS recognizes one firm for its commitment to high standards of professionalism and performance. This is an especially exceptional achievement considering the Tacoma Torts Section had only been operational since February of 2007.

New Year’s Resolution Challenge
The Licensing and Administrative Law Division (LAL) won the Washington Health Foundation’s 2008 New Year’s Resolution Challenge. Division staff kept track of individual wellness activities, including everything from getting enough sleep to exercise. LAL won the health and wellness challenge because their overall points put them in the top three among state agencies and they had the highest average points per person.

Super Lawyers

Washington Law & Politics recognizes Washington lawyers who have attained a high degree of peer recognition and professional achievement.
The AGO’s Consumer Protection Division gave more than 200 presentations to 20,260 citizens statewide, covering topics such as identity theft, consumer fraud, high tech crimes (spyware and phishing), and senior fraud. These presentations ranged from the “Guard it! Washington” 14-city statewide identity theft tour to a booth at the Puyallup Fair. This year, the new Manufactured Housing Landlord-Tenant Dispute Resolution Program began operation, and staff traveled the state educating stakeholders about the new law governing resolution in a public awareness and education campaign called “Don’t Move It; Solve It.” The AGO also gathered public comments and discussed results from the first phase of the state’s in-depth study of gasoline prices during the three-city Gas Gauge Tour. The study found that price variations across the state are generally due to the cost of obtaining and transporting fuel to stations, local costs of operation and competition.

One important reason for consumer protection outreach is to let communities know the office is here for them and to encourage them to contact us when they need assistance. The AGO has worked especially hard to ensure our education and outreach efforts reach minority communities across Washington because members of these communities are often targets of scams. Last year, the AGO participated in several consumer protection events in the Latino, Asian Pacific American, Filipino, and Native American communities.

Not all consumer protection education is for consumers. The AGO also reached out to businesses, educating them on how to conduct their business in a fair manner and how to guard their customers’ personal information from identity theft. Consumer protection staff met regularly with auto dealer associations to educate them on the many laws that regulate their activities to strengthen compliance. Staff also started a dialog with the debt collection industry in an effort to reduce complaints and promote voluntary compliance with the law.

Preventative education helps decrease the number of people harmed by deceptive and unfair business practices, drug and alcohol abuse, and Internet dangers.

**Consumer Protection**

The AGO’s Consumer Protection Division also:
- fielded 53,108 consumer phone calls
- responded to 1,287 written inquiries
- mediated 22,957 written complaints, and
- distributed 17,000 brochures
Substance Abuse

All kids deserve the chance to grow up without the burden of addiction. That is why the AGO has continued to partner with Lead on America, a Snohomish County community-based anti-drug organization, and a 23-year-old recovering meth addict to talk to students in middle schools and high schools around the state about the dangers of meth and what it can do to their bodies, lives, and communities. Last year, Attorney General McKenna personally visited 17 schools, reaching more than 3,500 students.

As a member of the Washington State Coalition to Reduce Underage Drinking, Attorney General McKenna has also participated in town hall meetings and spoken with parents and students around the state about the hazards of underage drinking and the penalties and liabilities of supplying alcohol to minors.

Internet Safety

The Internet has made life easier for all of us in many ways, but it’s also made it easier for criminals, scammers, and bullies. Attorney General McKenna and consumer protection staff have visited elementary schools, middle schools and high schools around the state to talk with students about the benefits and dangers of the Internet, including cyber bullying, social networking and predators. The AGO has partnered with several groups such as SafetyNet, Netsmartz, Comcast, iKeepSafe, and Fraud Fighters to raise awareness of online risks.

The AGO also made significant updates to the office’s Internet Safety Web pages. In partnership with national Internet safety expert Linda Criddle, the office added fresh information to the Web site for youth, adults, seniors, and educators. This new information will help people update their Internet safety regimen and learn ways they may be exposing themselves to identity theft, stalking, scams, and other Internet threats.

In addition to educating the public, the AGO also conducts training for law enforcement, client agencies and the legal community on such subjects as tax procedures, electronic disclosure and discovery, and the Homicide Investigation Tracking System.
Mortgage Fraud

In this time of rising mortgage rates, desperate homeowners have been lured by offers of assistance -- only to be cheated out of equity they’ve built up and tricked into transferring ownership of their home. Facing potential foreclosure is traumatic enough without the added harm of unscrupulous foreclosure rescue companies.

HB 2791 now requires a written contract with clearly disclosed terms, provides the foreclosed homeowner with the right to cancel the contract within five business days, and requires that the homeowner must receive at least 82 percent of the difference between the property’s fair market value and the underlying mortgage in the event of a sale to a third party.

Cell Phone Numbers

Consumers have an expectation that their cell phone numbers are private. Unsolicited commercial phone calls made to cell phones are especially burdensome because incoming calls use up valuable minutes paid for by the consumer. Washington wisely passed a law requiring wireless carriers to obtain the consent of subscribers before listing them in a directory. However, the law didn’t apply to third parties that publish directories.

HB 2479 now requires people who compile, market or sell phone numbers for commercial purposes to obtain a consumer’s opt-in consent before publishing wireless phone numbers in directories.

Identity Theft

Identity theft is one of our state’s fastest-growing crimes. Law enforcement and prosecutors reported that investigations were frequently prolonged by legal processes that required individuals to testify in person to the authenticity of records before they were submitted as evidence. Victims said that some law enforcement agencies were reluctant to take reports, which are essential to help identity theft victims clear their names. Stricter penalties were also needed to deter identity theft and bring thieves to justice.

SB 5878 incorporates two AGO-request bills, to require police to file police reports for victims of identity theft and to allow prosecutors to bring separate charges for each use of an individual’s information by an identity thief.

HB 2637 now allows records provided by out-of-state businesses to be authenticated by affidavit -- rather than in person.
Spyware

Washington’s Computer Spyware Statute, RCW 19.270, had several loopholes and weaknesses that needed to be fixed. These included an intent requirement for certain violations that burdened enforcement authorities, murkiness in some of the definitions of unlawful practices, a lack of enforcement authority against those who knowingly facilitated or procured the sending of spyware, and the absence of language in the statute prohibiting deceptive conduct that had emerged since the statute was originally passed.

HB 2879 now closes loopholes and strengthens Washington’s anti-spyware law to improve the AGO’s ability to bring cases.

Domestic Violence

According to the National Institute for Justice, an estimated one million people are stalked each year in the U.S. and about 25 percent of them reported missing work as a result of the stalking, missing an average of 11 days. Due to their circumstances, these victims may have depleted their earned leave balances and may have needed to take additional time away from work to address important safety concerns, changes in living arrangements or injuries that didn’t rise to the level that would have made the employee eligible for shared leave.

SB 6500 now adds victims of domestic violence, stalking and sexual assault to the list of employees eligible for the state’s shared leave program so their coworkers can donate leave to help them.

Sexually Violent Predators

When the AGO’s Sexually Violent Predator (SVP) Unit successfully commits an offender to the Special Commitment Center, the case is not closed. Instead, because civil commitment is indeterminate, the unit continues its work on the case. This work includes annual court reviews, release trials, proceedings involving supervision of offenders conditionally released to the community, and appeals. As a result, the workload of the unit has and will continue to grow.

During the 2008 session, the AGO received an increase in funding and number of staff to help the SVP unit with the civil commitment workload, to continue to keep our children and communities safe from the sex offenders most likely to reoffend.
Vehicular Homicide

In November, the Criminal Justice Division secured a conviction against the driver in a 2001 car wreck that killed three Washington State University students and injured three others. The driver was drunk, speeding and trying to pass in a no-passing zone when he caused the accident on the highway between the college towns of Pullman and Moscow, Idaho. Shortly before trial in 2001, he fled to Ireland. He was later featured on America’s Most Wanted, then finally arrested and extradited to the U.S. in the fall of 2005.

The jury found him guilty of three counts of vehicular homicide and three counts of vehicular assault. He received the top of the standard sentencing range -- 14 years.

Consumer Protection

The Consumer Protection Division resolved 26 cases under the Consumer Protection Act, including cases involving foreclosure rescue scams, auto fraud, charity schemes, spyware, marketing leads, Internet deception, weight loss programs, pharmaceuticals, and drug price transparency.

Medicaid Fraud

Last year, the Medicaid Fraud Control Unit helped recover nearly $16 million in settlement amounts for the Washington State Medicaid Program. Two of these settlements were with Merck and involved claims against the company for nominal price and rebate violations. The unit also settled with Walgreens Pharmaceutical for the improper switching of drugs for patients without physician permission. Walgreens provided drugs with a higher reimbursement rate rather than the drugs prescribed by the patient’s physician.

Medicaid Fraud Recoveries:

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<tr>
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<tr>
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<td>Merck II</td>
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<tr>
<td><strong>Total</strong></td>
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</tr>
</tbody>
</table>
Hanford Clean Up

Washington state, represented by the AGO’s Ecology Division, joined forces with Oregon and three Indian Tribes (the Yakama Nation, Umatilla and Nez Perce Tribes) to bring a federal court action against the U.S. Department of Energy seeking an order that the U.S. is liable to perform an assessment of injuries to natural resources from the contamination at the Hanford Nuclear Reservation. In September, the district court denied a motion by the U.S., which argued that this type of claim could not proceed until after cleanup decisions are made for the Hanford site (which will not occur in the next few years).

This ruling gives Washington the ability to obtain upfront funding from responsible parties for assessments of injuries to natural resources.

Sexually Violent Predators

The Sexually Violent Predator Unit successfully committed 13 of the state’s worst sex offenders to the Special Commitment Center this year. One of these defendants abducted a 15-year-old girl from the street and threatened to slice her throat. He also abducted a 19-year-old female from a hospital at knifepoint.

Another offender attacked a 10-year-old girl who was walking home from school. Shortly after his release from confinement for this offense, he attacked another young woman, became enraged by her screams and tried to strangle her.

A 28-year-old, who the state believes suffers from multiple personality disorders, was also committed due to five sexual offenses against minors.

Bankruptcy & Collections

The Bankruptcy and Collections Unit has been recovering money for the state for nearly 15 years. In that time, the unit has handled a total of 17,862 bankruptcy and collection cases on behalf of the state, collecting more than $142.4 million.
LEGAL HIGHLIGHTS

Safeguarding Consumers

Protecting the Public

Improving Public Health

Saving Money for Taxpayers

U.S. Supreme Court
Continued Collections

The Antitrust Division collected $3.06 million from the Enron Bankruptcy Estates as continuing payment from the settlement with Enron related to the 2000-2001 energy crisis. The money will be given back to the utilities that were harmed to be used for their energy conservation and low income energy assistance programs.

The division also collected the final payment from the settlement with music compact disc manufacturers who allegedly fixed retail prices. The payment, approximately $98,000, was directed to the Washington Music Educators Association.

Deceptive Internet Sales Practices

The Consumer Protection Division’s High-Tech Unit sued New Jersey-based Consumer Digital Services and its subsidiaries for deceptive Internet marketing practices, which enticed consumers with “free” products. Under the terms of the settlement, the defendants agreed to stop the unlawful activity, pay a $100,000 penalty, provide $200,000 in costs and fees, and refund consumers more than $55,400.

The High-Tech Unit also sued SubscriberBASE for deceptive Internet sales practices, including deceptive promotional offers and offers of free merchandise. Under the terms of the settlement, SubscriberBASE agreed to stop its deceptive practices, provide refunds to customers, and pay the state a civil penalty of $55,000 and nearly $70,000 for costs.

Pharmaceutical Business Practices

The Consumer Protection Division played a leading role in reaching a $41 million multi-state settlement with Caremark Rx, a national pharmacy benefits manager. The states accused Caremark of deceptively encouraging doctors to switch patients’ prescriptions under the guise of cost savings to patients and health care plans, but Caremark retained some of the cost savings without making adequate disclosures. Washington received $1,680,157. Caremark also agreed to pay consumer claims for patient costs associated with the drug switches.

In other multi-state action by the division, Washington and other states obtained a settlement against Express Scripts, Inc, another pharmacy benefits manager, for allegedly failing to clearly disclose all details about the process for switching drugs. The company agreed to better inform patients and prescribers about the effects of switching drugs, pay consumer claims for patient costs associated with the drug switches, and pay the states $9.5 million, including $471,600 to Washington, to recover litigation costs and provide low income drug related consumer education.

The division also participated in the largest pharmaceutical multi-state settlement in history against Merck regarding its deceptive promotion of the painkiller Vioxx. The states accused Merck of aggressive advertising that misrepresented the drug’s safety. Merck agreed to reform its marketing practices and pay the states $58 million. Washington’s share was over $1.6 million for costs, fees and consumer education.

Mergers and Significant Asset Sales

The Public Counsel Unit (PCU) represented consumer interests in several major transaction review cases this fiscal year, including:

- Recommending the Utilities and Transportation Commission (UTC) not approve the $7 billion acquisition of Puget Sound Energy by a private equity investment consortium because the transaction is not in the public interest.
- Reaching a $37.5 million settlement with the UTC, Verizon and other parties regarding Verizon’s Yellow Pages business spin off.
- Qwest Telecommunications’ sale of its downtown Seattle office building.
PROTECTING THE PUBLIC

Washington National Guard

The Government Operations Division, on behalf of Governor Gregoire, sued the federal government over certain planned Base Realignment changes, including the U.S. Department of Defense transfer of all Washington National Guard refueling jets to an out-of-state base. This would have left Washington state without access to these critical planes in the event of a natural or man-made emergency. After filing an appeal to the 9th Circuit, the litigation was dismissed based upon a resolution with the Department of Defense that provides the governor with ready access to comparable planes in the event of an emergency.

Highway Safety

The Transportation and Public Construction Division successfully argued to the Washington Court of Appeals that the Highway Access Management Act is constitutional. This statute allows the Department of Transportation to limit, for safety reasons, the points at which property owners can have driveways onto a state highway. The court held that the statute has a constitutionally sound administrative process to determine whether proposed access restrictions are reasonable. The decision sets a clear precedent on the use of the statute to protect both public safety and property interests in safe access to state highways.

Drunk Drivers

A driver in King County was arrested on suspicion of driving under the influence of alcohol with a breath alcohol content nearly double the legal limit. The criminal charges were dismissed by a municipal court judge who ruled that the alcohol content test could not be admitted at trial. In a separate hearing, the Department of Licensing (DOL) suspended the driver’s license for 90 days. The Court of Appeals upheld the suspension, agreeing with the argument of the AGO’s Regional Services Division that DOL could present evidence of a driver’s blood alcohol content in a license revocation hearing despite the same evidence having been suppressed in criminal proceedings.

In another DOL case, the AGO’s Spokane Division prevailed in upholding the admissibility of the state toxicologist’s declaration in drivers licensing revocation administrative proceedings. The State Supreme Court ruled unanimously that the toxicologist’s affidavit was admissible. Since the toxicologist’s affidavit is used in all DOL administrative licensing revocation hearings involving alcohol, this is a significant decision, positively impacting hundreds of cases statewide.
Liver Transplant Facility

In 2004, Swedish Medical Center applied for a certificate of need from the Department of Health (DOH) to allow the construction of a liver transplant center. The University of Washington (UW) operates the only liver transplant center in a region comprised of Washington and four other states. DOH determined there was a need for a second liver transplant center and granted the certificate.

UW challenged the decision and the case ultimately made its way to the State Supreme Court. Through skillful advocacy at the Supreme Court, Assistant Attorneys General representing both UW and DOH advanced the respective arguments and perspectives of the client agencies and thereby assisted the court in making a decision. In 2008, the court rendered its decision reinstating DOH’s grant of a certificate of need to Swedish Medical Center, clearing the way for construction of a second liver transplant facility to serve the region.

Non-licensed Administration of Anesthesia

The Government, Compliance and Enforcement Division defended the sanctioning of two dentists who allowed non-licensed personnel in their clinic to start IV lines and inject anesthesia into patients without the dentist being present. The Court of Appeals affirmed that such behavior violated the professional standards for the dentists.

Pediatric Dental Clinic

The University of Washington Division prepared and helped negotiate a contract with Children’s Hospital to build a new pediatric dental clinic at Sand Point. With the support of a $5 million grant from the Washington Dental Service, the new clinic will dramatically enhance the dental services available to patients at Children’s Hospital and the region, and open up new avenues for teaching and clinical experience for UW faculty and students.
SAVING MONEY FOR TAXPAYERS

Sales Tax Theft

The Criminal Justice Division prosecuted a case against the operator of a group of driving schools, who also had a number of ongoing disputes with the Department of Licensing (DOL). When law enforcement began to look at the defendant’s businesses, they noted that he had purchased several vehicles claiming to be a resident of Oregon. The defendant registered the vehicles in Oregon, waited 90 days or more, and then re-registered the vehicles in Washington, eluding more than $14,000 in sales/use tax.

When theft charges were filed, the defendant promptly settled his DOL cases and agreed to close all of his driving schools. In February, he pled guilty and was sentenced to 50 days, and ordered to pay the full restitution of $14,052 within 30 days.

Taxation of Bankruptcy Sales

Historically, bankruptcy courts exempted from taxation all property sold in a bankruptcy. The Bankruptcy and Collections Unit was the first public attorney office to oppose the exemption and alert other public attorneys to the issue. The unit successfully argued in numerous jurisdictions that the tax exemption granted by the Bankruptcy Code to sales in a bankruptcy is a limited one, and as a result collected millions of dollars for Washington. This year, in State of Florida v. Piccadilly Cafeterias, Inc., the U.S. Supreme Court reversed the 11th Circuit Court of Appeals and issued an opinion in support of the unit’s position that sales prior to confirmation are subject to taxation. Unit staff reviewed Florida’s briefs and assisted in preparation for oral argument.

Medicaid Fraud

The Criminal Justice Division’s Medicaid Fraud Control Unit filed eight felony counts, including Theft in the First Degree and Health Care False Claim against a defendant who, for more than two years, falsely billed for services she claimed to have provided to her mother, a Medicaid client. As a result of these false billings, she received more than $99,433. The defendant pled guilty and was sentenced to 25 months and restitution plus fines, fees and costs. She was also ordered not to provide care for vulnerable adults.

Fire Suppression Costs

The Natural Resources Division, in cooperation with the Fish, Wildlife and Parks and Torts divisions, secured a significant monetary settlement in favor of the state to resolve pending state and federal court litigation stemming from the 50,000-acre School Fire in Columbia and Garfield counties. The fire started when a dead pine tree fell onto a high voltage utility power line. The resulting fire caused significant damage to private, state and federal property and imposed significant fire suppression costs on the state. The settlement resolved litigation in state and federal court and benefited both private and governmental landowners.

Industrial Insurance Premiums

The AGO’s Labor and Industries Division represented the Department of Labor and Industries (DLI) in the first appellate challenge to the state’s “prime contractor liability” law. The Court of Appeals Division II affirmed that when a prime contractor has hired a subcontractor who has not paid industrial insurance premiums, DLI may seek repayment of the premiums from the prime contractor. This is an important case in the state’s efforts to battle the underground economy and provide a fair and competitive marketplace in the construction industry. This case will save the state money, and it gives contractors a strong incentive to hire subcontractors who are paying their taxes and complying with state laws.
Top Two Primary

The Solicitor General’s Office defended Washington’s top-two primary election against a First Amendment challenge. Under the top-two system, which the people enacted through Initiative 872, voters may choose any candidate for a particular office, regardless of the candidate’s party preference, and the top two vote getters advance to the general election. The U.S. Supreme Court held that Initiative 872 does not violate the First Amendment rights of the political parties because the initiative does not compel political parties to associate with or endorse candidates, and there was no basis for presuming that candidates’ party-preference designations would confuse voters. Attorney General McKenna successfully argued the case before the high court.
The Washington AGO is made up of 27 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 - Legal Divisions

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, 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 of the Revenue, Bankruptcy and Collections Division 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 litigating bankruptcy cases under Chapter 11 and Chapter 13 of the Federal Bankruptcy Code and litigating the priority of the tax agencies’ claims in superior court. The unit also handles a significant number of collection actions against the bonds of contractors who are delinquent in tax payments. Client advice is provided on a daily basis to the revenue agents as they work to collect unpaid taxes.

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 Division assists other 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 division has assisted in cases covering issues such as Medicaid funding, employment, the environment, elections, foster care, unfunded mandates, pensions, school funding, and tobacco diligent enforcement. 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 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.

Consumer Protection also oversees the administration of Washington's Lemon Law for new motor vehicle warranty enforcement. The services consist of arbitration to resolve consumer and manufacturer warranty disputes, consumer and industry education and enforcement of manufacturer and dealer obligations.

Corrections

The Corrections Division advises and represents the Department of Corrections, Indeterminate Sentence Review Board, Criminal Justice Training Commission, Governor's Clemency and Pardons Board, and Sentencing Guidelines Commission. The work of the division includes legal advice and defense of the state in litigation concerning prison operations and other aspects of the corrections system, and in habeas corpus proceedings involving challenges to criminal convictions and sentences, including death sentences.

Criminal Justice

The Criminal Justice Division conducts criminal investigations and prosecutions throughout the state at the request of the governor or local authorities and maintains a one-of-a-kind crime information database, the Homicide Investigation Tracking System or HITS, that provides assistance to state and local jurisdictions in crime investigations.

The division also investigates and prosecutes Medicaid fraud and resident abuse cases, as well as represents and advises the Washington State Patrol and Criminal Justice Training Commission.

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 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 U.S. Department of Energy’s cleanup of the radioactive and hazardous waste at the Hanford Nuclear Reservation.

Over the last year, the division has also seen a significant increase in legal work associated with the state’s focus on climate change and consumer products containing hazardous substances, including toys that contain lead and mercury.
OFFICE OVERVIEW - Legal Divisions

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, three regional universities, The Evergreen State College, 28 community colleges, five technical colleges, the Higher Education Coordinating Board, and the State Board for Community and Technical Colleges.

In 2008, the division continued to assist the state’s education agencies in carrying out their missions by helping with conflict resolution, business transactions and compliance with state and federal laws. Education attorneys also prosecuted professional misconduct cases related to teacher licensing.

Fish, Wildlife and Parks
The Fish, Wildlife and Parks Division represents the Washington Department of Fish and Wildlife and the Washington 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 criminal enforcement of fish and wildlife laws.

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, Public Disclosure Commission, State Lottery, Liquor Control Board, State Executive Ethics Board, Legislative Ethics Board, Professional Guardian Board of the Administrator for the Courts, and Criminal Justice Training Commission. It also prosecutes actions against health care providers licensed by a board or commission on behalf of the Department of Health. The division also acts as the statutory Counsel for the Environment.

Labor and Industries
The Labor and Industries Division provides litigation support and legal advice to the Department of Labor and Industries (DLI). 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 DLI in regulatory actions and provide client advice.
Labor and Personnel

The Labor and Personnel Division provides advice and representation in the specialized area of labor and employment law to nearly every Washington state agency, board, commission, and institution of higher education. The attorneys in the division have expertise in 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 in a variety of settings, including hearings before independent arbitrators, administrative personnel boards, labor commissions, and superior and appellate courts.

Licensing and Administrative Law

The Licensing and Administrative Law Division has a diverse practice. It advises and represents two large state agencies, the Department of Licensing and the Employment Security Department, and several boards and commissions, 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. Appellate practice accounts for 70 percent of the work; the rest is comprised of administrative litigation and advising agencies.

Attorneys in the division have considerable legal and practical expertise in areas such as the Administrative Procedure Act, constitutional law, public records, open public meetings, tribal relations, and regulatory enforcement of professional licensing standards. They appear in both state and federal courts, including the Court of Appeals, Washington Supreme Court and 9th Circuit Court of Appeals.

Natural Resources

The Natural Resources Division represents the Commissioner of Public Lands, Department of Natural Resources (DNR), 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 DNR, which manages 5.6 million acres of forest, range, commercial, agricultural, and aquatic lands. Much of this land (3 million acres) is state trust land that provides revenue to help pay for construction of public schools, universities and other state institutions, and funds services in many counties. Since 1970, DNR managed lands have generated more than $6 billion. DNR also has fire protection responsibilities and supports the Forest Practices Board in protecting public resources on nearly 13 million acres of state and private forest lands. The division supports DNR 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 Section represents consumers who would not otherwise have a dedicated 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.

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 Unit of the Revenue, Bankruptcy and Collections Division provides legal services to the Department of Revenue (DOR), which administers and collects the state’s major excise taxes. The unit 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 laws. The unit’s principal legal activity involves defending DOR against excise tax refund claims. The unit also handles property and miscellaneous tax litigation and advises DOR on tax and general governmental matters.

In addition, the unit continues to play an important role in the implementation of the historic tobacco litigation master settlement agreement (MSA) by enforcing the escrow statute adopted by the Legislature that applies to cigarette manufacturers selling tobacco products within the state which have not joined the MSA.

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 division also provides legal support to the Department of Early Learning, Department of Veterans Affairs and Department of Services for the Blind.

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 the 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 U.S. 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, including the Departments of Social and Health Services, Labor and Industries, Licensing, Corrections, the Eastern Washington State Historical Society, the Spokane Intercollegiate Research and Technology Institute, and various institutions of higher education. One of the newest clients to the division is the Department of Transportation with a focus on eminent domain cases involving the north Spokane corridor.

Attorneys in the Spokane division also defend some tort lawsuits brought against the state and handle Medicaid fraud criminal cases in Eastern Washington, as well as labor and personnel cases. Nearly all consumer protection functions for the eastern half of the state are located in the Spokane office.

Tacoma

The Tacoma Division provides a wide range 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. The Tacoma Torts Section defends personal injury lawsuits filed against the state in Pierce and Kitsap counties. This past year, the Tacoma Division expanded to include an attorney handling Labor and Personnel matters.

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.
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, which includes campuses in Seattle, Bothell and Tacoma, more than 40,000 students, 28,000 employees, and two major medical centers.

The division provides legal advice and representation across many specialized areas, including employment and labor relations, student relations, real estate, business transactions, intercollegiate athletics, public finance, intellectual property, tax, benefits, constitutional law, gifts and trusts, international operations, and health care law. The division’s mission is to serve the university -- and, in turn, 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 services, including:

- 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
- Student rights and various student programs
- State residency for tuition purposes
- All aspects of personnel/employment law, including faculty tenure and promotion
- University fundraising/development
- Environmental health and safety
- Public contracting
- Constitutional rights
- Veterinary training and services
- Real estate and other transactional work
- Capital planning and development
Along with the 27 legal divisions, there are several administrative units that make up the Attorney General’s Office. These units provide non-legal services to the office.

**Facility Services**

The Facilities Services Unit oversees the management of AGO facility needs as well as archiving, surplus property and vehicles. The unit provides a broad array of assistance that includes development and implementation of the agency six-year facility plan, oversight and management of agency leases and janitorial contracts, monitoring of prevailing wage documentation and payments, support for inner office moves and office design, as well as staffing to perform office repair projects.

**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**: Contract training and consultation, reconciliation, payment, monitoring, and compliance for agency payable contracts. This also includes enterprise contract reporting.

- **Payroll**: Processing of all staff payroll, reconciliation of benefits, payments to other agencies, and leave attendance.

- **Purchasing**: Purchasing consultation, research, ordering, and tracking of various vendors and commodities, and ensures compliance with state purchasing rules and regulations.

**General Services - Seattle**

The Seattle office General Services Unit manages a fleet of 27 vehicles, schedules conference rooms, makes all equipment reservations and assists with setup, orders and distributes all supplies, and performs clerical functions for copy projects, scanning and preparation of trial exhibits and manuals. The unit also provides reception and centralized mail services, coordinates facility matters and maintains security access in Seattle.

**General Services - Tumwater**

The Tumwater office General Services Unit provides a number of centralized services, including reception, mail services, assisting with facility matters, scheduling conference rooms (and needed equipment) and motor pool vehicles, as well as vehicle maintenance. The unit also prepares ID badges for all AGO employees and maintains security access for the Tumwater office.
Human Resources
The Human Resources Office provides comprehensive personnel-related programs and services to managers, employees and candidates for employment. The office’s goal is to promote effective and efficient human resource management throughout the AGO by assisting managers in recruiting, developing and retaining a well qualified and highly competent workforce.

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.

Mail and Document Services
The Mail and Document Services Unit is a central unit that provides delivery and production services statewide. The broad array of services includes:
- Mail and delivery services for the Olympia area
- Document printing and copying services
- Litigation support services, including reproduction of court documents and public records
- Scanning and imaging - creating a variety of print and electronic materials used internally and outside the agency
- Video and audio recording, mastering and copying

Public Affairs
The Public Affairs Unit is a 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 sometimes schedules Attorney General 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 five 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 guiding state agency payroll staff on wage withholding procedures
- Reviewing and distributing all mail addressed to the Attorney General, as well as e-mail sent through the AGO Web site
- Assigning and calendaring of all constituent correspondence received by the AGO
- Accepting service of process, docketing and assigning the cases served at their location and providing advice as to the proper assignment of new cases served upon other AGO locations

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.
OFFICE LOCATIONS

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

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

Bellingham

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

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

Everett

KENNEWICK
500 N Morain St, Ste 1250
Kennewick, WA 99336
(509) 734-7285

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

Kennewick

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1125 Washington St SE
Olympia, WA 98504
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SEATTLE
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OLYMPIA

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Vancouver

SEATTLE

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