

**C81C**  
**Office of the Attorney General**

***Operating Budget Data***

(\$ in Thousands)

	<b>FY 04</b>	<b>FY 05</b>	<b>FY 06</b>	<b>FY 05-06</b>	<b>% Change</b>
	<b><u>Actual</u></b>	<b><u>Working</u></b>	<b><u>Allowance</u></b>	<b><u>Change</u></b>	<b><u>Prior Year</u></b>
General Fund	\$16,112	\$17,412	\$16,620	-\$792	-4.5%
Special Fund	1,465	1,425	2,452	1,028	72.1%
Federal Fund	1,394	1,553	1,661	108	7.0%
Reimbursable Fund	<u>2,237</u>	<u>2,597</u>	<u>2,488</u>	<u>-109</u>	<u>-4.2%</u>
<b>Total Funds</b>	<b>\$21,208</b>	<b>\$22,987</b>	<b>\$23,222</b>	<b>\$234</b>	<b>1.0%</b>
Contingent & Back of Bill Reductions			-71	-71	
<b>Adjusted Total</b>	<b>\$21,208</b>	<b>\$22,987</b>	<b>\$23,151</b>	<b>\$164</b>	<b>0.7%</b>

- The fiscal 2006 allowance for the Office of the Attorney General (OAG) increases by only \$163,829, or 0.7% over the fiscal 2005 working appropriation. Increases result from routine changes in salary and benefit expenses.
- While the overall increase is nominal, the composition of fund sources changes significantly. Reduced general funds are offset by a greater reliance on special funds. A nominal decrease in reimbursable funds is offset by federal funds.

***Personnel Data***

	<b>FY 04</b>	<b>FY 05</b>	<b>FY 06</b>	<b>FY 05-06</b>
	<b><u>Actual</u></b>	<b><u>Working</u></b>	<b><u>Allowance</u></b>	<b><u>Change</u></b>
Regular Positions	239.50	240.50	240.50	0.00
Contractual FTEs	<u>13.80</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
<b>Total Personnel</b>	<b>253.30</b>	<b>240.50</b>	<b>240.50</b>	<b>0.00</b>

***Vacancy Data: Regular Positions***

Turnover, Excluding New Positions	8.49	3.53%
Positions Vacant as of 12/31/04	29.60	12.31%

Note: Numbers may not sum to total due to rounding.

For further information contact: Charles Smith

Phone: (410) 946-5530

- There is no change in either the number of contractual or regular employees.
- As of December 31, 2004, OAG has more than three times the vacancies needed to meet its budgeted vacancy rate.

## ***Analysis in Brief***

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### **Major Trends**

***OAG Improves Fair Value Assessments:*** When dealing with contractual disputes, OAG attempts to assess the fair value of monetary contract claims, which is considered to be one of the most difficult aspects of contract litigation.

***Medicaid Fraud Collections Rose:*** In fiscal 2004 the monies collected by the Medicaid Fraud Control Unit rose substantially.

### **Recommended Actions**

	<u>Funds</u>	<u>Positions</u>
1. Delete 20 vacant positions and reduce general funds by \$780,000.	\$ 780,000	20.0
2. Reduce out-of-state travel by \$22,000.	22,000	
<b>Total Reductions</b>	<b>\$ 802,000</b>	<b>20.0</b>

**C81C**  
**Office of the Attorney General**

***Operating Budget Analysis***

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**Program Description**

The Attorney General (AG) acts as legal counsel to the Governor, General Assembly, Judiciary, and all departments, boards, and commissions (except the Commission on Human Relations, Public Service Commission, and State Ethics Commission). The Office of the Attorney General (OAG) represents the State in all matters of interest to the State, including civil litigation and criminal appeals in all State and federal courts. The office also reviews legislation passed by the General Assembly prior to consideration by the Governor. The office is supported by 11 divisions: Legal Counsel and Advice; Securities; Consumer Protection; Antitrust; Medicaid Fraud Control; Civil Litigation; Criminal Appeals; Criminal Investigations; Educational Affairs; Correctional Litigation; and Contract Litigation.

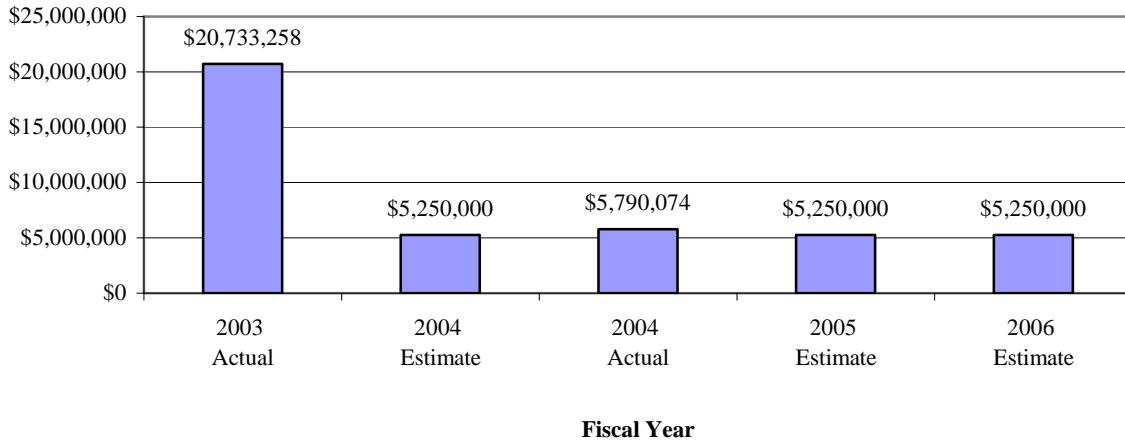
The office also provides assistant attorneys general and staff attorneys to State agencies. The positions are in the agency budgets, rather than in the budget of the OAG. **Appendix 6** provides a breakdown of assistant attorneys general by agency, while **Appendix 7** provides a list of all the significant litigation currently being handled by OAG.

**Performance Analysis: Managing for Results**

While OAG has numerous Managing for Results measurements, it is important to note that many of the metrics are out of the agency's control. For example, postponement by the defendant's counsel, court delays, and subpoena compliance all can affect the timeliness and even the success rate of OAG, although some measurements allow for a greater degree of control than others.

**Exhibit 1** illustrates the amount of money OAG collected via its Consumer Protection Unit. The agency's estimate for fiscal 2004 was very close to the actual result. The estimates for fiscal 2005 and 2006 are the same as for 2004.

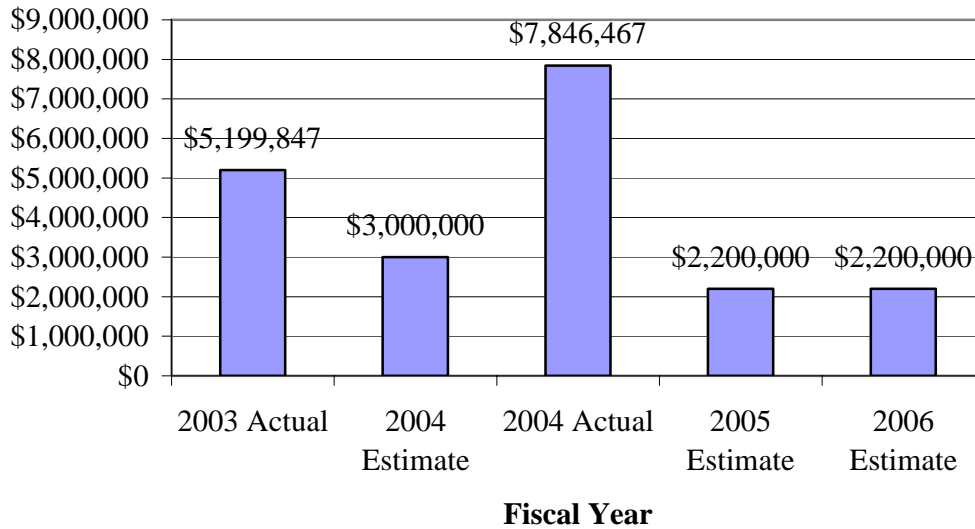
**Exhibit 1  
Consumer Protection Recoveries**



Source: Office of the Attorney General

Collections from the Medicaid Fraud Unit in fiscal 2004 exceeded the agency’s expectations, as shown by **Exhibit 2**.

**Exhibit 2  
Collections from the Medicaid Fraud Control Unit**



Source: Office of the Attorney General

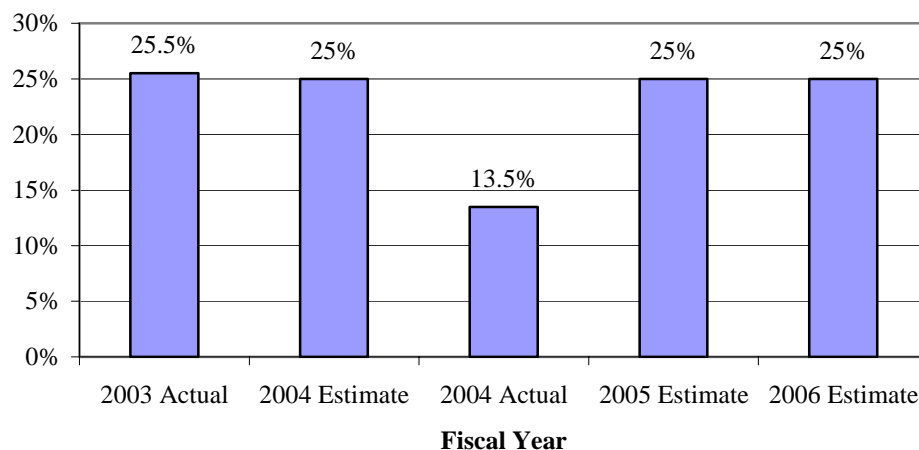
### *C81C – Office of the Attorney General*

The spike in collections in fiscal 2004 is due to multi-state cases, which typically result in larger sums of money versus intra-state cases. Estimates for fiscal 2005 and 2006 reflect historical averages.

In all contract litigation cases, OAG assesses the fair monetary value as early as possible, with the hope that the litigation will be resolved for the approximate value that the agency assigned to the case. OAG's results are shown in **Exhibit 3**.

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**Exhibit 3**  
**Average Variance of Actual Settlement Amounts from the**  
**Most Recent Case Value Assessment**



Source: Office of the Attorney General

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The significant decline in fiscal 2004 represents a greater degree of accuracy in the agency's ability to assess the fair value of a contract. It should be noted, however, that this improvement is not considered permanent, which can be seen by the fact that the fiscal 2005 and 2006 estimates continue to be 25%.

### **Governor's Proposed Budget**

The fiscal 2006 budget for OAG increases by \$163,829, or 0.7% over the fiscal 2005 working appropriation. Most of this increase can be accounted for by increased retirement costs and salary increments, as well as decreases in employee and retiree health insurance and telecommunications expenditures.

**Exhibit 4**  
**Governor's Proposed Budget**  
**Office of the Attorney General**  
(\$ in Thousands)

<b>How Much It Grows:</b>	<b>General Fund</b>	<b>Special Fund</b>	<b>Federal Fund</b>	<b>Reimbursable Fund</b>	<b>Total</b>
2005 Working Appropriation	\$17,412	\$1,425	\$1,553	\$2,597	\$22,987
2006 Governor's Allowance	16,620	2,452	1,661	2,488	23,222
Contingent & Back of Bill Reductions	-48	-11	-5	-6	-71
<b>Adjusted Allowance</b>	<b>16,572</b>	<b>2,442</b>	<b>1,656</b>	<b>2,481</b>	<b>23,151</b>
Amount Change	-\$840	\$1,017	\$103	-\$116	\$164
Percent Change	-4.8%	71.4%	6.6%	-4.5%	0.7%

**Where It Goes:**

**Personnel Expenses**

Retirement contribution cost increase.....	\$141
Increments and other compensation.....	292
Employee and retiree health insurance .....	-118
Workers' compensation premium assessment.....	-69
Turnover adjustments .....	-57
Other fringe benefit adjustments.....	89

**Other Changes**

Capital lease telecommunications per Department of Budget and Management (DBM) budget instructions .....	-36
Administrative hearings per DBM adjustment .....	-34
Telephone expenses reduced due to increased use of e-mail.....	-40
Miscellaneous .....	-4

**Total** **\$164**

Note: Numbers may not sum to total due to rounding.

**Contingent Actions**

The fiscal 2006 allowance reflects the elimination of \$70,505 (subobject 0172), the appropriation for matching employee deferred compensation contributions up to \$600, contingent upon enactment of a provision in budget reconciliation legislation.

## Recommended Actions

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	<u>Amount Reduction</u>		<u>Position Reduction</u>
1. Delete 20 vacant positions and reduce general funds by \$780,000. The Department of Legislative Services is recommending deleting the funding for 13 positions while abolishing 20 positions so the Office of the Attorney General (OAG) can still meet its fiscal 2006 budgeted turnover rate. Since 2001, OAG has consistently had a high number of vacancies. On July 14 and December 31, 2003, OAG had 26.6 and 30.5 vacancies, respectively, while on the same dates in 2004 the agency had 28.5 and 29.6 vacancies. Given the fact that OAG has operated with in excess of 20 vacancies for almost four years, there is no reason to believe that the agency cannot continue to operate without 20 vacant positions.	\$ 780,000	GF	20.0
2. Reduce out-of-state travel by \$22,000. Due to the fiscal condition of the State, the Department of Legislative Services is recommending limiting routine out-of-state travel to the fiscal 2004 appropriation. While the reduction has been assigned to the Legal Counsel and Advise Division, the agency can allocate the reduction among its various programs as it sees fit.	22,000	GF	
<b>Total General Fund Reductions</b>	<b>\$ 802,000</b>		<b>20.0</b>

## *Current and Prior Year Budgets*

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### Current and Prior Year Budgets Office of the Attorney General (\$ in Thousands)

	<u>General Fund</u>	<u>Special Fund</u>	<u>Federal Fund</u>	<u>Reimb. Fund</u>	<u>Total</u>
<b>Fiscal 2004</b>					
Legislative Appropriation	\$17,753	\$602	\$1,428	\$2,522	\$22,305
Deficiency Appropriation	0	0	0	0	0
Budget Amendments	0	1,405	0	166	1,571
Cost Containment	-663	0	0	0	-663
Reversions and Cancellations	-978	-542	-34	-451	-2,005
<b>Actual Expenditures</b>	<b>\$16,112</b>	<b>\$1,465</b>	<b>\$1,394</b>	<b>\$2,237</b>	<b>\$21,208</b>
<b>Fiscal 2005</b>					
Legislative Appropriation	\$17,254	\$1,411	\$1,553	\$2,523	\$22,741
Budget Amendments	158	14	0	74	246
<b>Working Appropriation</b>	<b>\$17,412</b>	<b>\$1,425</b>	<b>\$1,553</b>	<b>\$2,597</b>	<b>\$22,987</b>

Note: Numbers may not sum to total due to rounding.

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## **Fiscal 2004**

### **General Funds**

Due to cost containment, the appropriation for OAG was reduced by \$663,119, of which \$495,107 was attained by shifting the funding for 10 positions from general fund revenues to special fund revenues from the Consumer Protection Division. The remaining \$168,012 reduction was achieved through the elimination of four vacant positions. There were additional reversions in the general fund totaling \$977,928, of which \$265,942 was for health insurance and retiree health insurance that was not spent due to vacancies. The remaining \$711,986 was unspent salary and fringe benefit funding due to the inability to fill vacancies, which have subsequently been filled.

### **Special Funds**

There were two significant budget amendments and several smaller amendments. Special funds increased by \$1,405,107. The largest amendment, for \$600,000, was used to fund the operating costs for the Homebuilders Unit within OAG. The second largest amendment, for \$495,107, was used to support Consumer Protection.

There was a cancellation of \$541,926, of which \$532,936 was in the homebuilders division and \$8,990 was in the Victim and Witness Protection Fund.

### **Reimbursable Funds**

A cancellation of \$451,156 is primarily due to a vacancy in the Consumer Protection Division and operation funds (\$151,722), contract litigation (\$111,846), and three vacancies in the Gun Trafficking Unit (\$159,896).

## **Fiscal 2005**

The fiscal 2005 working appropriation for OAG has increased by \$245,294 over the fiscal 2005 legislative appropriation. The following is a breakdown of the increase: \$157,626 in general funds was budgeted in the Department of Budget and Management for cost-of-living adjustments and was subsequently allocated by budget amendment to each agency. Two special fund grants, for \$11,228 and \$2,500, were used to pay for witness protection and relocation and to defray the expense of mediation for complex employment litigation respectively, and \$73,940 via a reimbursable fund grant from the Governor's Office of Crime Control and Prevention to pay for salary, travel, and operating expenses related to Operation Cease Fire.

## ***Audit Findings***

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Audit Period for Last Audit:	August 24, 1998 – August 21, 2001
Issue Date:	April 2002
Number of Findings:	3
Number of Repeat Findings:	1
% of Repeat Findings:	33%
Rating: (if applicable)	

**Finding 1:** Periodic reviews were not performed of all nonbudgeted fund accounts to ensure that funds were distributed timely.

**Finding 2:** The office improperly transferred expenditures totaling approximately \$1.4 million instead of requesting budget amendments.

**Finding 3:** **Internal controls over collections were inadequate which contributed to the office’s failure to deposit a check for \$175,157.**

**Object/Fund Difference Report  
Office of the Attorney General**

<u>Object/Fund</u>	<u>FY04 Actual</u>	<u>FY05 Working Appropriation</u>	<u>FY06 Allowance</u>	<u>FY05 - FY06 Amount Change</u>	<u>Percent Change</u>
<b>Positions</b>					
01 Regular	239.50	240.50	240.50	0	0%
02 Contractual	13.80	0	0	0	0.0%
<b>Total Positions</b>	<b>253.30</b>	<b>240.50</b>	<b>240.50</b>	<b>0</b>	<b>0%</b>
<b>Objects</b>					
01 Salaries and Wages	\$ 15,691,281	\$ 17,920,333	\$ 18,268,351	\$ 348,018	1.9%
02 Technical & Spec Fees	141,534	60,000	60,000	0	0%
03 Communication	354,729	441,784	345,698	-96,086	-21.7%
04 Travel	81,926	112,308	113,208	900	0.8%
07 Motor Vehicles	234,760	247,387	248,480	1,093	0.4%
08 Contractual Services	678,012	989,520	965,037	-24,483	-2.5%
09 Supplies & Materials	317,691	333,600	333,600	0	0%
11 Equip - Additional	1,004,034	48,555	48,555	0	0%
12 Grants,Subsidies,Contr	420,643	435,425	440,498	5,073	1.2%
13 Fixed Charges	2,283,182	2,398,483	2,398,302	-181	0%
<b>Total Objects</b>	<b>\$ 21,207,792</b>	<b>\$ 22,987,395</b>	<b>\$ 23,221,729</b>	<b>\$ 234,334</b>	<b>1.0%</b>
<b>Funds</b>					
01 General Fund	\$ 16,111,926	\$ 17,412,037	\$ 16,620,288	-\$ 791,749	-4.5%
03 Special Fund	1,465,023	1,424,873	2,452,470	1,027,597	72.1%
05 Federal Fund	1,394,058	1,553,320	1,661,295	107,975	7.0%
09 Reimbursable Fund	2,236,785	2,597,165	2,487,676	-109,489	-4.2%
<b>Total Funds</b>	<b>\$ 21,207,792</b>	<b>\$ 22,987,395</b>	<b>\$ 23,221,729</b>	<b>\$ 234,334</b>	<b>1.0%</b>

Note: The fiscal 2005 appropriation does not include deficiencies, and the fiscal 2006 allowance does not reflect contingent reductions.

**Fiscal Summary  
Office of the Attorney General**

<u>Program/Unit</u>	<u>FY04 Actual</u>	<u>FY05 Wrk Approp</u>	<u>FY06 Allowance</u>	<u>Change</u>	<u>FY05 - FY06 % Change</u>
01 Legal Counsel and Advice	\$ 4,950,148	\$ 5,337,961	\$ 5,341,913	\$ 3,952	0.1%
04 Division of Securities	1,997,199	2,319,570	2,368,085	48,515	2.1%
05 Division of Consumer Protection	4,600,275	4,286,201	4,355,717	69,516	1.6%
06 Antitrust Division	888,085	943,952	958,187	14,235	1.5%
09 Medicaid Fraud Control Unit	1,858,745	2,090,784	2,215,435	124,651	6.0%
14 Civil Litigation Division	1,689,837	1,786,658	1,895,626	108,968	6.1%
15 Criminal Appeals Division	1,793,534	1,871,258	1,842,507	-28,751	-1.5%
16 Criminal Investigation Division	1,107,153	1,519,054	1,456,632	-62,422	-4.1%
17 Educational Affairs Division	465,065	594,753	549,350	-45,403	-7.6%
18 Correctional Litigation Division	246,758	473,227	450,225	-23,002	-4.9%
20 Contract Litigation Division	1,610,993	1,763,977	1,788,052	24,075	1.4%
<b>Total Expenditures</b>	<b>\$ 21,207,792</b>	<b>\$ 22,987,395</b>	<b>\$ 23,221,729</b>	<b>\$ 234,334</b>	<b>1.0%</b>
General Fund	\$ 16,111,926	\$ 17,412,037	\$ 16,620,288	-\$ 791,749	-4.5%
Special Fund	1,465,023	1,424,873	2,452,470	1,027,597	72.1%
Federal Fund	1,394,058	1,553,320	1,661,295	107,975	7.0%
<b>Total Appropriations</b>	<b>\$ 18,971,007</b>	<b>\$ 20,390,230</b>	<b>\$ 20,734,053</b>	<b>\$ 343,823</b>	<b>1.7%</b>
Reimbursable Fund	\$ 2,236,785	\$ 2,597,165	\$ 2,487,676	-\$ 109,489	-4.2%
<b>Total Funds</b>	<b>\$ 21,207,792</b>	<b>\$ 22,987,395</b>	<b>\$ 23,221,729</b>	<b>\$ 234,334</b>	<b>1.0%</b>

Note: The fiscal 2005 appropriation does not include deficiencies, and the fiscal 2006 allowance does not reflect contingent reductions.

**Fiscal 2006 Cost Containment Actions  
As Submitted by the Agency  
Estimated Fiscal 2006 Savings  
Compared to Fiscal 2005**

<u>Cost Saving Action/Efficiency Measure</u>	<u>Program Code</u>	<u>Total Funds</u>	<u>General Funds</u>
Consumer Protection	C0005	\$1,064,000	\$1,064,000

In order not to reduce services to Maryland citizens, we will be using consumer protection recoveries to help fund consumer protection services.

**Distribution of Assistant Attorneys General**

<u>Agency</u>	<u>AAGS</u>	<u>Staff Attorneys</u>
Aging	2	
Agriculture	2	
Assessments and Taxations	3	
Auto Insurance Fund (MAIF)	2	
Budget and Management	8	3
Business and Economic Dev.	10	1
Comptroller	5	
University of Maryland, Higher Ed, MIEMSS, MPT, Morgan, St. Mary's, BCCC	19	
MD Dept. of Education	6	
Environment	24	
Energy Administration	2	
Environmental Services	2	
Foods Center	1	
General Services	7	
Gov. Office Children, Youth, and Families	1	
Health and Mental Hygiene	42	8
Housing and Community Develop.	13	
Human Resources	18	
Insurance Administration	12	
Juvenile Services	4	
Labor, Licensing, and Regulations	23	
Lottery Agency	3	
Natural Resources	9	
Planning	1	
Public Safety and Correct. Services	15	
Retirement Systems	5	1
Stadium Authority	1	
State Police	5	
Subsequent Injury Fund	6	
Transportation	45	
Treasurer's Office	2	
Uninsured Employers' Fund	3	
Workers' Compensation Commission	1	
<b>Total</b>	<b>302</b>	<b>13</b>

Source: Office of the Attorney General

**Office of the Attorney General  
Significant Litigation – Fiscal 2004 and 2005**

**Securities Division**

**Completed:**

The Securities Division, as part of a global settlement against major brokerage firms for fraud involving research analysts and investment banking, obtained fines in excess of \$6 million. As part of the settlement, in addition to the fines, the firms agreed to remedial measures designed to prevent such violations in the future, to provide independent research recommendations to their retail customers, and to provide funding for investor education programs.

Bear Stearns	\$408,100 to State of Maryland
Credit Suisse First Boston	1,224,301 to State of Maryland
Goldman Sachs	408,100 to State of Maryland
JP Morgan	408,100 to State of Maryland
Lehman Brothers	408,100 to State of Maryland
Morgan Stanley	408,100 to State of Maryland
Salomon Smith Barney (Citigroup)	2,448,601 to State of Maryland
UBS Warburg	408,100 to State of Maryland
Piper Jaffray	204,050 to State of Maryland

**Pending:**

Deutsche Bank	408,100 to State of Maryland
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There is at least one other case pending that likely will settle this year with a fine in the \$400,000 range.

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**Consumer Protection Division**

**Completed:**

***Advisory Communications Systems (“ACS”)*** \$200,000 to Maryland Consumers  
\$75,000 to State of Maryland

Settlement with “ACS”, a prepaid legal plan that allegedly had charged consumers for memberships without their consent.

***American Benefits Association*** \$50,000 to Maryland Consumers  
\$25,000 to State of Maryland

Settlement with American Benefits Association, a New Jersey company that had sold discount health cards and allegedly had misrepresented the benefits of the card and had offered insurance without registering the product with the Insurance Commissioner.

***B&S Marketing Enterprises, LLC and  
S&B Marketing Enterprises, LLC*** \$1 million+ to Maryland Consumers  
\$500,000+ to State of Maryland

A Court of Special Appeals opinion upholding an order against B&S Marketing Enterprises, LLC and S&B Marketing Enterprises, LLC, that do business as “Kash-2-U Leasing” and “Cash-2-U Leasing” and their two principals, Louis Seo, Jr. and Frank Brown, Jr., who were making usurious loans under the guise of a sale/leaseback transaction.

***D.C., Inc.*** \$60,000 to Maryland Consumers  
Settlement with D.C., Inc., a seller of tobacco products over the Internet, that allegedly was selling to minors and was failing to pay cigarette taxes.

***Ford Motor Credit Company*** \$100,000+ to Maryland Consumers  
\$100,000+ to State of Maryland

Multi-state settlement with Ford Motor Credit Company that allegedly overcharged Marylanders when paying off their leases early.

***Furman Family*** \$2.5 million to Maryland Consumers  
Settlement with mortgage lender that had been bringing actions against consumers seeking to require them to make payments a second time that had been previously made to a mortgage servicer, but which the lender had claimed had not been properly made under the mortgages. Lender agreed to provide consumers with credit for approximately \$2,500,000 in payments made to a mortgage servicer who had absconded with the money.

***Paris George*** \$30,000+ to Maryland Consumers  
\$75,000 to State of Maryland

Affirmance by the circuit court of an order against Paris George, a seller of medical equipment who failed to provide it, was requiring him to pay restitution, civil penalties, and to change his practices.

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***Medco Health Solutions, Inc./  
Merck-Medco Managed Care, LLC.***

\$750,000 to Maryland Consumers  
\$210,000 to State of Maryland

Landmark multi-state settlement with the largest pharmaceutical benefits manager, that changes the way that the company switches patients from one brand name drug to another within the same therapeutic class. Medco also agreed to pay restitution to consumers who incurred costs as a result of being switched from one cholesterol lowering drug to another.

***Kevin Robinson, dba Robinson &  
Associates of Temple Hills***

\$23,500 to Maryland Consumer  
\$100,000 to State of Maryland

Violation of Maryland's Custom Home Protection act by failing to place monies paid by consumers into an escrow account or having a surety bond to cover the deposits; violated the Home Builder Registration Act by acting as a home builder without being registered; and violated the Consumer Protection Act by failing to build the home as promised.

***Jomar Saddler***

\$16,000 to Maryland Consumers

Settlement with an Internet auction seller who was failing to provide goods.

***S & S Management Services, Inc.***

\$10,000+ to Maryland Consumers

Settlement with an auto dealership over a bogus sweepstakes in which the dealership agreed not to engage in the practice again and to pay restitution and costs.

***Sears, Roebuck & Co.***

\$250,000 to State of Maryland

Settlement with Sears, Roebuck & Co., which allegedly had unlicensed individuals providing plumbing services in Sears' name. Sears agreed to monitor the individuals providing plumbing services under its name and to provide reports to the Consumer Protection Division.

***Starline Van Lines, Inc. d/b/a  
Prime Movers, Inc.***

\$500,000 to Maryland Consumers  
\$50,000 to State of Maryland

Settlement with moving company that allegedly had been providing "low ball" estimates and selling moving insurance without providing it.

***Sterling Mirror, Inc.***

\$50,000 to Maryland Consumers  
\$50,000 to State of Maryland

Affirmance by the Court of Special Appeals of an order against Sterling Mirror, Inc. and its principal, who had misled consumers when offering financing for the purchase of custom mirrors.

***United Propane, Inc.***

\$10,000+ to Maryland Consumers

Settlement with a propane gas company that allegedly was charging consumers more than permitted under their contracts, changing the company's practice and providing restitution to overcharged consumers and costs.

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***Verizon, Cingular, and Sprint PCS*** \$425,000 to State of Maryland  
Multi-State settlement with 3 major wireless carriers, under which the companies agreed to change their marketing practices.

***Wal-Mart Stores, Inc.*** \$50,000 to State of Maryland  
Multi-state settlement with Wal-Mart Stores, Inc. over youth access to tobacco.

***Warner-Lambert Company, LLC.*** \$285,000 to State of Maryland  
Multi-state settlement with Warner Lambert Company, LLC over its “off-label” marketing of Neurontin.

**Pending:**

The Consumer Protection Division has more than 100 matters it is investigating, litigating, or in which it is currently distributing restitution to consumers.

***Jeffrey Bryant and Advance Building Solutions, Inc.*** \$71,956 to Maryland Consumers  
The Home Builders Registration Unit charged Jeffrey Bryant and Advanced Building Solution with entering into contracts with consumers to construct homes in Montgomery and Prince George’s County, accepting partial payment from those consumers, but not beginning construction or refunding the consumers’ monies, and failing to pay deposits and payments into an escrow account or having a surety bond to cover the depositions. The division issued an order that immediately barred them from acting or offering to act as a home builder in the State of Maryland and requires them to pay restitution to consumers. Pending in the Office of Administrative Hearings to determine whether civil penalties should be imposed, and if so, the amount of those penalties.

***Donald Corby t/a D&M Corby Construction and C&S Contracting, Inc.***  
The Home Builders Registration Unit filed charges, which are currently pending, against two Garrett County home builders and their principals who allegedly took deposits and payments from consumers and failed to complete construction, or refund the payments.

***JAE Developers of Owings Mills and JAE Homes, Inc. of Baltimore*** \$605,362+ to Maryland Consumers  
The Consumer Protection Division issued a cease and desist order requiring two related home builders and their principals to pay restitution for taking deposits and payments from consumers but failing to complete consumers’ homes. The division’s order found that they entered into contracts with consumers to construct homes in the Baltimore City and Baltimore County area, accepted partial payment from those consumers, but failed to begin or complete construction on a number of homes and have not refunded the monies paid. A hearing is currently scheduled at which the Home Builders Registration Unit will ask that civil penalties also be imposed.

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***John Seisman and Leedom, Inc.***

\$13,723+ to Maryland Consumers

The Home Builders Registration Unit charged that John Seisman and Leedom, Inc. violated the Maryland Custom Home Protection Act by failing to place deposits into an escrow account or post a surety bond to cover the deposit and violated the Home Builder Registration Act by acting as a home builder without being registered with the Home Builders Registration Unit. The division issued an order that immediately bars them from acting or offering to act as a home builder in the State of Maryland and requires them to pay restitution to consumers. Pending in OAH to determine whether civil penalties should be imposed, and, if so, the amount of those penalties.

**Antitrust Division**

**Completed:**

***Buspar***

\$1.8 million to Maryland Consumers,  
Medicaid, State of Maryland and charities

Multi-state antitrust suit alleging that Bristol-Myers Squibb, Watson Pharma, Inc. and Danbury Pharmacal, Inc. prevented general buspirone hydrochloride, an anti-anxiety drug, from coming on the market to compete with Bristol's branded drug, BuSpar.

***Cardizem CD***

\$400,000 to Maryland Consumers

\$20,000 to Maryland Medicaid Agency

50-state settlement resolving an antitrust lawsuit filed against Aventis Pharmaceuticals Inc., Andrx Corp. and affiliated entities, involving Cardizem CD, a commonly prescribed cardiac medication. The suit alleged that Aventis and Andrx illegally agreed that Andrx would not market a less expensive generic version of Cardizem CD; in return Aventis paid Andrx nearly \$90 million. By delaying this general entry into the market, Aventis was able to charge higher prices to heart patients. Under the settlement, Aventis and Andrx must pay \$80 million into a fund to compensate consumers, state agencies and insurance companies.

***Children's Motrin***

\$257,415 to State of Maryland

In the Spring of 2003, Maryland co-lead an investigation of the non-prescription, over-the-counter market for liquid suspension children's ibuprofen. The only two manufacturers of the store brand alternative to Children's Motrin®, Perrigo and Alparma, agreed that only Perrigo would supply the product, with Alparma receiving several million dollars to stay out of the market. The States' settlement requires Perrigo and Alparma to pay a total of \$1.5 million in equitable relief and civil penalties. Because of the lack of evidence of consumer harm resulting from the illegal conduct, Perrigo and Alparma agreed to pay approximately \$1 million into two funds administered by the National Association of Attorneys General, established to further state antitrust enforcement efforts, plus \$10,000 to each of the 50 participating states. Maryland will receive an additional \$247,415 in attorneys fees in fiscal 2005.

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**CDs**

\$1.4 million in product to schools and libraries  
\$820,470 to Maryland Consumers  
\$200,000 to State of Maryland

Maryland was one of 42 states and three territories that sued music distributors Bertelsmann Music Group, Inc., EMI Music Distribution, Warner-Elektra-Atlantic Corp., Sony Music Entertainment, Inc., and Universal Music Group, as well as music retailers Transworld Entertainment Corp., Tower Records and Musicland Stores Corp. for violating federal antitrust laws. The suit alleged that the defendant distributors and retailers illegally conspired to fix prices at which compact discs could be sold to consumers. Under an industry practice known as Minimum Advertised Price, or MAP, distributors would pay for retailers' advertising in local media if the retailers did not advertise CDs at a sale price below the minimum set by the distributor. This practice discouraged discounting and prevented consumers from comparison shopping. As a result, CD prices were artificially inflated.

In fiscal 2004, 59,197 Maryland residents filed claims under the settlement and each received \$13.86, for a total Maryland cash recovery of \$820,470. Further, over 103,000 CDs, valued at \$1.4 million, have been distributed to public school systems, libraries, public universities, and community colleges. In fiscal 2005, the general fund will receive over \$200,000 in attorneys fees and costs.

**Salton**

\$151,000 to State of Maryland

A 49-jurisdiction settlement of an antitrust lawsuit against Salton, Inc., a housewares manufacturer, resulted in a recovery of \$151,000 for Maryland in fiscal 2004. The suit alleged that Salton coerced retailers into fixing the price of Salton's George Foreman contact grills, and excluding Salton's competitors from their shelves. Under the policies challenged by the Attorneys General, when retailers sold these popular indoor grills at a discount, or stocked a competitor's product, Salton suspended the retailer until it complied with Salton's policies.

**Taxol**

\$90,000 to Maryland Consumers  
\$1.2 million to State of Maryland

Maryland, with Ohio, led another federal antitrust case against Bristol-Myers Squibb, this time alleging that Bristol monopolized the market for Taxol, a drug used to combat breast, ovarian, lung, and other cancers. According to the complaint, Bristol fraudulently secured patents that had no legal validity and delayed generic competition. As a result, hospitals, cancer patients and states paid, on average, over \$3,000 more for Taxol treatments. Under the settlement, consumers received over \$90,000 in fiscal 2004, and Maryland agencies, hospitals and the general fund will recover \$1.2 million in damages, penalties and restitution. In addition, Bristol will provide approximately \$8 million of free Taxol to Drug Enforcement Agency-approved facilities throughout the country including the University of Maryland Medical System, Johns Hopkins Hospital and North Arundel Hospital.

**Pending:**

There are a number of active investigations for which Maryland may receive recoveries. It is anticipated that Maryland will receive recoveries in the next year.

**Medicaid Fraud Control Unit**

**Completed:**

***Tender Loving Care Health  
Care Services, Inc.***

\$806,769 to Medicaid Program  
\$1.4 million + to State of Maryland

Agreement to pay approximately \$1.3 million in connection with allegations that the former manager of its Maryland franchise operations knowingly caused Medicaid to overpay the company for its services. In addition to the civil settlement with TLC, the Medicaid Fraud Control Unit also obtained a conviction against the manager of TLC’s Maryland office and against a corporation controlled by that individual. At sentencing, the court ordered that William Geist and Sierra Mountain Enterprises, LTD jointly and severally pay \$1 million in restitution and penalties.

**Pending:**

***Arthur Weinstein***

\$320,000 to Medicaid Program

Owner of the Medical Pharmacy of Chevy Chase has been indicted for Felony Medicaid Fraud and Felony Theft. From January 1999 through March 2002, Weinstein billed Medicaid for \$320,000 worth of prescriptions that he never filled. No trial date set.

***Stanley Benn***

\$200,000 to Medicaid Program

Owner of Resolutions Unlimited, has been indicted for Felony Medicaid Fraud and Felony Theft. From May 2002 to March 2004, Benn and his company knowingly submitted approximately \$200,000 in fraudulent claims to the Maryland Medicaid program. Those claims represented that the company had provided psychiatric rehabilitation services to clients when Benn knew that the services had not actually been performed.

There are a number of active investigations for which Maryland may receive recoveries. It is anticipated that Maryland will receive recoveries in the next year.

**Civil Litigation: Cases with Damages Claimed of \$1 Million +**

***Adams v. Skinner (DHCD)***

\$9 million

Violation of Public Information Act Request.

***Allen v. MTA and Nickia Nicholson (MDOT/MTA)***

\$1 million

Bus accident tort claim.

***Alvi v. State (MSP)***

\$7.2 million

False arrest.

***Andrews v. DHMH (DHMH)***

\$2.2 million

Violation of rights based on rape when a patient is at a State mental hospital.

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<b><i>Assessment &amp; Taxation v. General Motors Acceptance Corporation (SDAT)</i></b> Dispute over applicability of federal tax credit.	\$1 million +
<b><i>Atlantic Mutual Insurance Co. a/s/o Tessco Inc. v Mayor &amp; City Counsel of Baltimore (MDOT/MTA)</i></b> Fire hydrant explosion; extensive water damage to building & equipment.	\$45 million
<b><i>Blueford v. State (MDOT/Port)</i></b> Injured worker alleged failure to maintain equipment in proper working order.	\$1.2 million
<b><i>Bradford v. MSDE (MSDE/Civil)</i></b> Constitutionally adequate funding for Baltimore City schools.	\$1 million +
<b><i>Brandt v. CliftonPerkins Hospital Center (DHMH/Perkins)</i></b> Patient claims violation of civil rights and medical malpractice for use of restraints.	\$20 million
<b><i>Britton v. UMBC (Educational Affairs)</i></b> Former professor alleged sex discrimination/retaliation.	\$6 million
<b><i>Brooks v. MSP (MSP)</i></b> Employment discrimination - Violation of Title VII and ADA. Sex discrimination for Polycystic Ovarian who has endometriosis and refuses to work shift work.	\$3 million
<b><i>Caldron v. Slander (MDOT/Port)</i></b> Wrongful death of truck driver at terminal.	\$5 million
<b><i>Carlson v. Hinkle (MSP)</i></b> Violation of employee's rights, by discipline and termination.	\$247 million
<b><i>Campitelli v. Curran (MDOT/MdTA)</i></b> Violation of prohibition against slavery and peonage.	\$20 million
<b><i>Carroll County Commissioners v. MSRPS (MSRPS)</i></b> "Withdrawal liability" of Carroll County for members who remained in the system after the county's withdrawal in 1985.	\$12 million
<b><i>Carter v. State (MDOT/Aviation Admin.)</i></b> Maryland Aviation Administration employees in their individual capacities for 16 counts (federal and State) predominately for race, sex and age discrimination.	\$30 million
<b><i>Claim of Clark Construction (DHMH/Contract Lit.)</i></b> Alleged delays in construction of Eastern Shore Hospital Center.	\$2 million

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<b><i>Connors v. UMCP (UMCP)</i></b> Employment discrimination; age, disability, and race.	\$1 million
<b><i>Conte v. Towson University (Educ. Affairs)</i></b> Breach of contract, denial of bonus to director of academic institute.	\$5 million
<b><i>Cook, Durrell D. and Janet Miller v. Officer Kenneth Barnes, et al. (Educ. Affairs.)</i></b> Excessive Force.	\$20 million
<b><i>Costello Construction v. MPA (Port)</i></b> Construction claims.	\$1.9 million
<b><i>Davis v. PG County (MSP)</i></b> Unlawful and false arrest, illegal search & seizure; racially motivated.	\$4 million
<b><i>Debusk v. University of Maryland (UM)</i></b> Wrongful termination.	\$4 million
<b><i>Deneselya v. Kazlo (DLLR/Real Estate Commission)</i></b> Denial of license.	\$3 million
<b><i>Doe v. Kennedy (Civil/Sheriff)</i></b> Constructive discharge and civil conspiracy.	\$2.8 million
<b><i>Dunkes, James v. DHMH (DHMH)</i></b> Multiple torts, violation of constitutional rights.	\$25 million +
<b><i>Expectacion, Roy and Elisa v. MTA (MDOT/MTA)</i></b> MTA bus collision.	\$1.5 million
<b><i>Faulcon v. MTA (MDOT/MTA)</i></b> Pedestrian ran out into path of MTA bus that was proceeding through intersection with green light.	\$1 million
<b><i>Fenzel v. MTA (MDOT/MTA)</i></b> Slip and fall injury involving MTA bus.	\$1 million
<b><i>Fisher v. State of Maryland (DHR)</i></b> Failure of DSS to intervene to stop child abuse.	\$15 million
<b><i>Ford v. Baltimore City (Civil/Sheriff)</i></b> Excessive force, wrongful arrest.	\$2 million
<b><i>Gebhardt &amp; Smith (MDOT/Port)</i></b> Hurricane Isabel flooding in World Trade Center.	\$1 million

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<b><i>Hill v. Dunn, et al. (Civil)</i></b>	\$10 million
Malicious prosecution and related claims against Anne Arundel County State’s Attorney Investigator related to his involvement in the preparation of the criminal case against plaintiff.	
<b><i>Holland v. Boyd (Educ. Affairs)</i></b>	\$1.5 million
Wrongful arrest, excessive force, false imprisonment, assault, battery.	
<b><i>Hone v. USM (USM)</i></b>	\$ 6 million +
Appeal of tenure denial.	
<b><i>Horridge v. State of Maryland (DHR)</i></b>	\$10 million
Failure to properly investigate complaint of child abuse.	
<b><i>Hovatter v. Widdowson (MSP)</i></b>	\$53 million
False arrest and malicious prosecution.	
<b><i>Johnson v. Maple Shade Youth &amp; Family Services (DHR)</i></b>	\$1 million
Injuries received by foster child in group home.	
<b><i>Jones v. MTA (MDOT/MTA)</i></b>	\$1.5 million
Former employee alleging breach of contract, negligence, negligent misrepresentation and loss of consortium.	
<b><i>Jordan v. MPA (MDOT/Port)</i></b>	\$3 million
Wrongful death.	
<b><i>Kent v. MdTA (MDOT/MdTA)</i></b>	\$6 million
Racial discrimination in employment.	
<b><i>Roy Kirby &amp; Sons (Contract Lit.)</i></b>	\$7 million +
Construction delays and additional costs.	
<b><i>Knussman v. MSP (MSP/Civil)</i></b>	\$1 million \$700,000 fees/costs
Violation of father’s rights under FMLA and equal protection.	
<b><i>Lievers, Steven &amp; Malinda v. MTA (MDOT/MTA)</i></b>	\$1.5 million
MTA bus allegedly pinned plaintiff between the bus and his vehicle and was thrown onto the hood of his vehicle.	
<b><i>L.J. v. Massinga (DHR)</i></b>	\$1 million
Class action suit from 1984 that accuses Baltimore City Social Services for neglect of five children abused in foster care.	

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<b><i>Lovett, Paul Scott v. University of Maryland (USM)</i></b> Slip and fall.	\$ 1 million
<b><i>McElroy, Richard &amp; Sallee v. National Railroad Passenger Corporation (MDOT/MTA)</i></b> Alleged slip and fall while exiting mid-level of MARC train.	\$6 million
<b><i>McLaurin, Tonya v. State (DHMH)</i></b> Wrongful death.	\$1 million
<b><i>Mazuz v. State of Maryland (Educ. Affairs)</i></b> Tort Claims Act.	\$2 million +
<b><i>Morgan v. Ferrante, Inc. (MSP)</i></b> False arrest, false imprisonment, assault, battery, civil rights violations, etc.	\$5 million
<b><i>NAACP v. MSP (MSP/Civil)</i></b> Allegations that MSP officer used race-based profiles to stop and search motorists on I-95.	\$2.5 million +
<b><i>Neifert &amp; Krolczyk (Environment)</i></b> Denied wetlands permits.	\$1 million “possible”
<b><i>Noft v. Cornell (UM Medical School/Educational Affairs)</i></b> Negligence/strict liability, distribution of defective Human Growth Hormone, from which plaintiff died after contracting Cruetzfeld Jakob Syndrome from the hormone.	\$3 million
<b><i>Parker v. Calvert County Sheriff (Civil/Sheriff)</i></b> Former deputy sheriff fired for sexual harassment, claims the charges were false and that white officers were treated more favorably.	\$1 million
<b><i>Parker v. Officer McCullough, et al. (MDOT/MTA)</i></b> Alleged false arrest/false imprisonment; case of mistaken identity and sexual assault while incarcerated.	\$1 million
<b><i>Paster, Kathleen &amp; Frederick v. MTA (MDOT/MTA)</i></b> Pedestrians allegedly struck by MTA bus while walking close to the pedestrian crosswalk.	\$3 million
<b><i>Pendleton v. State of Maryland (DHR)</i></b> Negligence, battery, assault in foster care.	\$4 million
<b><i>Pettiford v. Baltimore City Community College (BCCC)</i></b> Wrongful termination.	\$1.5 million
<b><i>Appeals of PHP Healthcare, Inc. (DPSCS)</i></b> Contract claims resulting from bankruptcy of health care provider in prisons.	\$355.7 million

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<b><i>Pool and Kent Company (DGS/DJS/Contract Lit.)</i></b>	\$9 million
Claim for equitable adjustment for extra work, delay, design changes, etc. in construction of Baltimore City Juvenile Justice Center.	
<b><i>Porter v. Springfield (DHMH)</i></b>	\$1.5 million
Employment discrimination.	
<b><i>Roy v. State of Maryland (Civil/Sheriffs)</i></b>	\$80 million
Tort claim.	
<b><i>Runaldue, Sandra v. State of Maryland (USM)</i></b>	\$60 million
Tort action.	
<b><i>Salerno v. State of Maryland (DJS)</i></b>	\$25 million
Juvenile suicide while in State custody.	
<b><i>Samuels, Wesley v. State of Maryland (UM)</i></b>	\$1 million +
Negligence.	
<b><i>Sawiki v. Morgan State University (Morgan)</i></b>	\$10 million +
Breach of contract, race, gender, religious, age, and disability discrimination.	
<b><i>Schmitt-Cooper, Karen v. John Bischoff, et al. (DHR)</i></b>	\$3 million +
Wrongful death.	
<b><i>Seok Soon Chang v. State of Maryland (MSP)</i></b>	\$12 million
Arrest warrant issued in wrong name.	
<b><i>Shorb, Michael v. Misti Hoffmaster (DNR)</i></b>	\$2 million
False imprisonment, excessive force, malicious prosecution, assault and battery, and trespass.	
<b><i>Silva v. Bowie State University (Bowie State)</i></b>	\$5 million +
National origin and age discrimination.	
<b><i>Spicknall v. MSP, et al. (MSP, Courts/Sheriff, Public Safety)</i></b>	\$18 million
Failure of MSP to prevent former husband from obtaining handgun, after protective order had been issued, resulting in murder of her two children.	
<b><i>Svehla, Michelle Ann v. MTA and MAIF (MDOT/MTA)</i></b>	\$1 million
Plaintiff alleges the vehicle she was operating was cut off by a phantom vehicle, causing her to leave the roadway and strike a utility pole.	
<b><i>UMUC Competent Authority Request, US-German Income Tax Treaty (Educ. Affairs)</i></b>	\$1.1 million
Authority of German government to impose income taxes on State of Maryland employees.	

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<b><i>USF&amp;G v. Comptroller (Comptroller)</i></b> Request for refund of sales tax.	\$1.9 million
<b><i>Appeal of Wackenhut Corp. (DPSCS)</i></b> Contract claim for food service operations in prisons.	\$1.2 million +
<b><i>Walker v. Morgan State University (Morgan State)</i></b> Slip and fall on ice and snow.	\$1 million +
<b><i>Waterman v. Batton, et al. (MDOT/MdTA)</i></b> Wrongful death, traffic chase. During an attempted apprehension of Mr. Waterman for speeding, he fled the scene and MdTA Police fatally shot him.	\$6 million +
<b><i>Whiting &amp; Turner (Contract Lit.)</i></b> Contract claim for delays and additional costs.	\$1 million +
<b><i>Williams v. Morgan State University (Morgan State)</i></b> National origin discrimination.	\$1 million +
<b><i>Woods v. PG County, et al. (Civil/Sheriff)</i></b> Arrest based on mistaken identity.	\$8 million

**Other Significant Cases**

**Election Litigation:** *Schade, et al. v. State Board of Elections, et al.*, No. C-04-97297 (Circuit Court Anne Arundel County), *aff'd on interlocutory appeal*, \_\_ Md. \_\_ (2004)(opinion to follow).

In late-April 2004, a group of voters sued the State Board of Elections challenging the decision to deploy the Diebold AccuVote-TS direct recording electronic voting system without a “paper trail.” After a three-day evidentiary hearing in circuit court beginning on August 25, 2004, the State prevailed. Plaintiffs sought expedited review in the Court of Appeals on two occasions, and oral argument took place on September 14. The Court of Appeals ruled in the State’s favor on both appeals and affirmed the decision of the State Board of Elections. The case remains pending for elections after November 2, 2004.

**Election Litigation:** *TrueVoteMD v. State Board of Elections*, Civil No. JFM-04-3307.

Earlier this month, an organization sued the State Board of Elections in federal court, asserting the right to designate poll watchers; distribute flyers within the 100-foot campaign-and-electioneering-free zone around the polls; and, interview voters within the 100-foot zone. The organization would not prohibit its members from wearing T-shirts or buttons with a slogan or group identification while they were in the polls or the 100-foot zone around the polling place’s entrance. The case was heard on an expedited preliminary injunction. The Court denied all requested relief.

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**Election Litigation: *Bly v. State Board of Elections*, Civil No. WMN-04-3054**

A citizen sued the State Board of Elections in federal court challenging the write-in vote procedure and the Diebold AccuVote-TS direct recording electronic voting machines. The court directed expedited briefing on abstention issues and as of November 1, 2004, the case is awaiting decision.

**Election Litigation: *Nader for President v. State Board of Elections*, Civil No.C 2004-100210**

The Nader for President organization challenged the State Board's decision not to count petition signatures that had been affixed in violation of State law. The trial court ruled in the board's favor; however, on an expedited appeal, the Court of Appeals ruled that the statute was unconstitutional as applied. The State is contesting the plaintiff's claim for attorney's fees.

**Election Litigation: *Maryland Green Party v. State Board of Elections*, Case No.C-2000-65788OC**

The State successfully obtained dismissal of the Green Party's request for substantial attorney's fees. The case is currently on appeal.

**Election Litigation: *Suessman v. Lamone, et al*, Civil No. 04-218**

Citizens challenged the statutory process that permits candidates for judicial office to run on party tickets during primary elections, because independent voters cannot vote on party tickets in primaries. The State Board prevailed before a three-judge panel in the circuit court. The case was appealed to the Court of Appeals, and as of November 1, 2004, decision is awaited.

Source: Office of the Attorney General