



OFFICE OF THE ATTORNEY GENERAL

ANNUAL REPORT ON THE ACTIVITIES OF THE CONSUMER PROTECTION AND ANTITRUST DIVISION

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ATTORNEY GENERAL

2014 ANNUAL REPORT

A REPORT ON THE ACTIVITIES OF THE WEST VIRGINIA ATTORNEY GENERAL'S CONSUMER PROTECTION AND ANTITRUST DIVISION

I.

FOREWORD

In accordance with West Virginia Code § 46A-7-102(4), it is my pleasure to submit this report to the Governor and Legislature of West Virginia. This report outlines the activities of the Consumer Protection and Antitrust Division from November 20, 2013, through November 19, 2014, and highlights the type of consumer protection issues that are being handled by our office.

Respectfully Submitted,



PATRICK MORRISEY
ATTORNEY GENERAL

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III. OVERVIEW OF CONSUMER PROTECTION AND ANTITRUST DIVISION

As the largest division in Attorney General Patrick Morrisey's Office, the Consumer Protection and Antitrust Division ("Division") is central to the Office's mission to protect the public from unfair, deceptive and fraudulent acts or practices. The Division's mission is also to foster fair and honest competition and ensure that monopolies do not override the free market.

In furtherance of these missions, the Office has vigorously enforced and advocated the State's consumer laws through an expanded base of attorneys, investigators, and staff. We have aggressively combatted scams against consumers through proactive public awareness and devotion of resources to monitor and identify emerging fraudulent schemes. In addition, we have continued the implementation of updated technology and a new case management system to enhance the efficiency and work product in the Division.

Overall, the Consumer Protection and Antitrust Division continues to be an integral cornerstone of Attorney General Morrisey's efforts to protect and educate the consumers of this State.

A. Legal Authority

The Division is responsible for enforcing the West Virginia Consumer Credit and Protection Act, W. Va. Code § 46A-1-101 *et seq.*; the West Virginia Antitrust Act, W. Va. Code § 47-18-1 *et seq.*; and the Preneed Funeral Contracts Act, W. Va. Code § 47-14-1 *et seq.*

B. Staffing

Overseen by a Deputy Attorney General, the Division is comprised of over thirty (30) employees who play a significant role in the furtherance of the mission. These employee positions include nine (9) attorneys, two (2) paralegals, four (4) mediators, three (3) investigators, and more than ten (10) support staff. In addition, the Division also utilizes eight (8) consumer compliance specialists to assist in the consumer awareness and outreach. These specialists are located in various locations in the State and are responsible for a designated region of counties. The specialists also serve as a conduit of information from the counties to the Attorney General Office relating to emerging problems or scams that are being experienced by consumers.

C. Processing of Consumer Complaints

The backbone of the Division's efforts – and its successes – is its consumer complaint process. The complaint process affords both consumers and businesses the opportunity to seek an informal resolution of a dispute without formal litigation. The process is intended to have the Division serve as a *de facto* mediator who aides in the resolution. The intent is to bring about a positive result for the consumer, and ensure business awareness and compliance with the Consumer Protection laws. The mediation process is voluntary, but the intent is to reach a settlement satisfactory to both parties.

The complaint process is centralized around a written complaint form. If a consumer has a dispute with a business, he/she can call the Division's toll-free hotline at 1-800-368-8808. If the consumer has questions or difficulty, an employee of the

Division will assist the consumer over the phone or invite the person to the Division office to assist in person. When requested by a consumer, a complaint form and instructions are sent to the consumer's home. The complaint form is also available on the Division's website at www.wvago.gov.

During this reporting period, the Division also implemented technology that allows consumers to fill-out and submit a complaint online. This is the first time the Division has allowed online submission, and has been implemented to meet the needs of consumers who desire electronic filing.

When the complaint form is returned, it is assigned to a designated "mediator" within the office. The mediators are employees of the division that are specifically charged with overseeing the complaint process and guiding its resolution. Upon receiving a Complaint, the mediator contacts the business on behalf of the consumer requesting a response to the complaint. The business then responds either agreeing to the complaint or disputing the complaint. Typically, the response includes an offer to resolve the matter for a designated amount of money as reimbursement. Depending on the nature of the complaint and the cooperation of the parties, the average mediation process lasts about 30 to 45 days.

IV. Key Issues and Problems Affecting Consumers

During this reporting period, the Consumer Protection and Antitrust Division has seen a significant increase in the prevalence of scams upon consumers as well as breaches of electronically stored personal identifiable information in the possession of businesses. The office continues to address the scourge of substance abuse in the

State, and handle complaints relating to contractors and collection agencies compliance with the Consumer Credit and Protection Act.

The reporting period also included several unique events that prompted Division-wide involvement in the handling and resolution of complaints. In particular, the water crisis in the Kanawha Valley prompted complaints of price gouging, numerous calls to the office, and establishment of a designated group of employees within the Division to handle these matters. Further, the cancellation of a national mud run in Charleston resulted in an overwhelming number of complaints to our office. Within 24-hours of the announced cancellation, the Division received more than 250 filed complaints. More continued to be filed in the days and weeks that followed.

These unique events, coupled with more general complaint matters, resulted in multi-faceted issues and problems that needed to be addressed during this reporting period.

Below is a brief summary of several problems and issues encountered and being addressed by our Division.

A. Scam Protection and Awareness subdivision

During this reporting period, one of the largest issues affecting consumers in West Virginia is the massive uptick in scams being perpetrated via telephone, mail, email, and even in-person solicitation. The increased use of technology and creation of false websites and telephone numbers that mirror real entities have further enhanced the deception of consumers.

Recognizing that the only way to combat these scammers is by public awareness, and when possible, prosecution, the Division has undertaken an aggressive public awareness and investigation plan. Working with state and federal law enforcement, the Division has been investigating scams and forwarding necessary information to law enforcement to aid in the prosecution of these scammers.

In addition, the Division is proactively making the public aware of scams as they are discovered. This assists in limiting the reach of a particular scam, and additionally aids in the prosecution of that matter. In furtherance of this aggressive approach, in May of 2014, the West Virginia Attorney General Consumer Protection Division started a Scam Protection and Awareness subdivision.

This subdivision was started so consumers who call in can report possible scams they have received. This subdivision keeps track of all calls that come into the office by collecting the name of the consumer and the area of the state they are calling from, the type of scam: telephone or mail, and any phone numbers or addresses that the consumer may have obtained. The Attorney General's Office currently has one full-time employee to track all of these calls and speak with consumers. The employee is also able to let the consumer know whether or not it is a known, reported scam. The types of scams that have been reported are varied. To date, some of the more prevalent scams include those falsely purporting to be Publisher's Clearing House, Mega Millions, IRS, Credit Card Services, Microsoft or Windows, and various medical device companies.

The reporting process begins with a consumer calling to report a scam. It is entered into the "scam" database and the consumer can also fill out a formal complaint form. If a certain scam begins to trend, the office will send out a press release to the

area where the consumers are receiving these calls or statewide. Our office receives over 400 calls a month solely related to scams.

Given the significant impact upon our state, our office will continue to make the public aware of these scams as they happen and cooperate with law enforcement to bring these scammers to justice.

B. Data Breaches of Personal Identifiable Information

Over the past year, the Consumer Protection Division saw an unprecedented increase in sophisticated computer hacking and/or data breach incidents affecting large corporations, financial institutions and health organizations. Some of the businesses whose systems were breached were eBay (online retailer); Community Health Systems, Inc. (a Tennessee-based health corporation that owns 207 hospitals in 29 states, including 4 in West Virginia); Home Depot (which has six stores in West Virginia); and J.P. Morgan Chase Bank (with banks throughout West Virginia). Even the federal government was not immune when hackers recently stole personal identification information of 800,000 U.S. Postal Service employees.

Sophisticated international computer hacking organizations have been identified by law enforcement as being responsible for infiltrating the computer systems of these entities and stealing the personal identification information of millions of customers and patients. In most cases, the businesses are unaware that their systems have been breached until an outside source, usually a security firm, notifies them of unusual activity in their systems.

What is clear from these data breaches is the enormous cost to consumers and businesses to patch the breach, to notify its customers of the breach and to take measures to correct the breach and prevent it from happening the in future. In a recent news article, Target is still in litigation over a massive data breach that occurred a year ago. In most cases, the costs to the businesses have been in the millions, thus the phrase “cyber terrorism” has been coined by the data breach industry to describe this type of computer hacking.

West Virginia citizens have also been affected by these data breaches by having their personal information stolen, finding unauthorized charges or attempts to charge on their credit accounts and having unauthorized charge accounts opened in their names.

The Attorney General has dedicated an attorney in the Consumer Protection Division to be the point of contact for data breaches affecting West Virginians. The attorney is a member of the NAAG Privacy Working Group, is active in multistate efforts against businesses which have failed to properly secure personal identification information and is involved in efforts to make West Virginia citizens and businesses aware of steps they can take to protect themselves against data breaches and identity theft.

C. Substance Abuse Task Force

One of the central initiatives by Attorney General Morrisey continued to be addressing the scourge of prescription drug abuse in the State. The abuse of prescriptions drugs, specifically opioids, has increased dramatically in recent years. Drug abuse in West Virginia and throughout the nation has reached a monumental

level, and the economic and social impact is debilitating. The healthcare cost related to drug abuse is reported to be \$72.5 billion annually, and costs West Virginians over \$430 million dollars a year. The opioid abuser generates direct health care costs 8.7 times higher than non-abusers.

Additionally, the number of opioid prescriptions filled has increased from 76 million in 1991 to 219 million in 2011. Data from the National Survey on Drug Use and Health (NSDUH) shows that nearly one-third of people aged 12 and over who used drugs for the first time in 2009, began by using a prescription drug. In West Virginia the problem is even more critical as drug overdose is the leading cause of death for West Virginians under 45. West Virginia also leads the nation in the most medicated state, filling 7 more prescriptions per person annually than the national average.

The statistics surrounding drug abuse are alarming and necessitates involvement by law enforcement, manufacturers, distributors, pharmacies, healthcare providers and consumers. The epidemic requires a multifaceted approach to educate the healthcare industry, increase monitoring programs, and further enforcement of laws and regulations.

Comprised of former prosecutors and experienced law enforcement investigators, Attorney General Morrissey's task force is charged with development of initiatives and methods to combat this growing problem.

D. DRoP initiative

One of the initiatives derived from the office's Substance Abuse Task Force has been the West Virginia Attorney General's DRoP (Dispose Responsibly of

Prescriptions) program. The DRoP program provides prescription drug drop boxes to law enforcement agencies in West Virginia. The program is a partnership with entities such as the West Virginia Department of Health and Human Resources, the West Virginia Medical Association, and the West Virginia Department of Higher Education. Together with the Attorney General's Office, these organizations share the goal of creating healthier West Virginia communities by proactively fighting prescription drug abuse. This particular initiative is aimed at collecting and properly disposing of unused, expired, or unneeded controlled substances in the hopes of decreasing the amount of unwanted prescription medications throughout West Virginia.

The goals of this program are as follows:

1. To increase public awareness about the hazards of unused medications in homes;
2. To limit access to prescription drugs by youth and/or adults who might abuse or misuse prescription drugs found in the homes of their relatives and friends;
3. To decrease the incidence of crime in West Virginia communities; and
4. To develop partnerships with West Virginia communities to fight drug abuse in West Virginia.

The West Virginia Attorney General's Office will use funds from the Attorney General's Public Health Trust to purchase prescription drug collection boxes for law enforcement agencies in exchange for data on the amount of prescription drugs collected to be reported to the WVAGO on a monthly basis. Costs of upkeep of the box and any related disposal fees will be incurred by the hosting law enforcement agency. Drug destruction can be coordinated through partnership with the DEA or local hospitals. In conjunction with the installation of the drop boxes, we encourage law

enforcement agencies to educate the public in their respective communities of the risks of keeping unused, and expired controlled substances, and instructions on utilizing the prescription drug drop boxes.

Our office has currently processed applications and secured funding for three prescription drug drop boxes to be located at the Boone County Sherriff's Department, Roane County Sheriff's Department, and Shepherdstown Police Department.

E. Targeting of Elderly

The targeting of the elderly to perpetuate a fraud or scam still remains a problem affecting the state. While education and awareness remain important weapons to combat this problem, making the filing of complaints easier and available are also important factors. Therefore, the Division and the AARP Foundation continued the ElderWatch collaboration during the reporting period. ElderWatch is dedicated to providing protection for West Virginia's older consumers who have been victims of fraud. One of the services offered by ElderWatch is assisting consumers who want help filling out the Division's consumer complaint form. If the consumer would like assistance, the Division's receptionist transfers the call to an AARP volunteer who fills out the form for the consumer over the telephone. Sadly, however, in October 2014, the AARP Foundation announced the closure of its local office, including the ElderWatch program. The Attorney General's office recognizes the utility of this program and has been evaluating options with the AARP to revive this volunteer program in some form.

F. Increasing Consumer Awareness

Attorney General Morrisey continued educational outreach programs during the reporting period through Internet social networking sites, such as Facebook and Twitter. These media sites connect to West Virginians by offering updated consumer tips, information about current news and events, as well as provide forums for consumer feedback. The Attorney General's office can be found on Facebook at "Facebook.com/AGWestV" and on Twitter at "Twitter.com/WestVirginiaAG".

In addition, the Division updated and created multiple brochures relating to the major topics and questions that are posed to the Division. In particular, the Division updated/created the following: "In The Loop: Getting To Know Your Attorney General's Office"; "On The Mark: A Guide To Concealed Handgun Laws in West Virginia"; "Measuring Up: A Consumer's Guide To Hiring Contractors for Home Repairs"; and "Consumer Protection: Know The Facts You Need To Protect Yourself."

V.

Summary of Activities, Investigations, and Enforcement

A. Consumer Complaints

During the reporting period, the Division received 5,723 Complaints. The most common complaints involved automobile purchases/warranties and promotional marketing. (See Exhibit 1 attached hereto). Of the complaints pending at the beginning of, or received during, the reporting period, the Division closed 5,915. As a result of the Division's mediation efforts, consumers in mediated matters received \$507,163.77 in cash refunds, and \$1,240,979.99 in debt cancellation and value for products and

services received. The total amount received in mediation was \$1,748,143.76. (See Exhibit 2).

B. Consumer Protection Litigation

When a matter is brought to the attention of the Division involving significant areas of violation or repeat offenses by a business, the Division investigates the business, and when necessary, brings suit against the business to enforce compliance with the Consumer Credit and Protection Act. Below is a summary of matters that resulted in formal litigation by the Division, and concludes with a listing of assurances/settlement agreements that were reached during the reporting period.

Case Summaries

1.

State of West Virginia ex rel. Patrick Morrissey, Attorney General v. Aegon Direct Marketing Services, Inc., Aegon USA; Aegon Financial Services Group Inc.; Transamerica Advisors Life Insurance Company; Transamerica Capitol Inc.; Transamerica; Stonebridge Life Insurance Company; Stonebridge Casualty Insurance Company
(Civil Action No.: 12-C-126-N Circuit Court of Mason County, West Virginia)

On or about October 2, 2012, the Attorney General filed a complaint against Aegon Direct Marketing Services, Inc.; Aegon USA; Aegon Financial Services Group Inc.; Transamerica Advisors Life Insurance Company; Transamerica Capitol Inc.; Transamerica; Stonebridge Life Insurance Company; and Stonebridge Casualty Insurance Company for unlawful telemarketing activities, unlawful imposition of fees, and other unfair and unlawful acts as prohibited by the West Virginia Consumer Credit and Protection Act West Virginia Code § 46A-1-101, et seq., in connection with the

marketing of credit card ancillary services such as identity theft protection. The Defendants in this case are third party vendors for various banks and credit card companies. A scheduling order was originally entered setting trial for this matter on December 2, 2014. However, a new order has been entered continuing the trial. The Court has not scheduled a second conference with the parties to set a new trial date.

2.

State of West Virginia, ex rel. Patrick Morrissey v.
AmerisourceBergen Drug Corp, et al.
(Civil Action No. 12-C-141 – Circuit Court of Boone County)

On June 26, 2012, the Office of the Attorney General filed a Complaint and Petition for temporary and permanent injunction against the following drug manufacturers: AmerisourceBergen Drug Corporation, Miami-Luken, Ink, J. M. Smith Corporation d/b/a Smith Drug Company, The Harvard Drug Company, Anda, Inc., Associated Pharmacies, Inc., Auburn Pharmaceutical Company, H.D. Smith Wholesale Drug Company, Keysource Medical Inc., Masters Pharmaceuticals, Inc., Quest Ph.

The Complaint and Petition alleged that the aforementioned manufacturers acted negligently, and recklessly, by failing to diligently respond to suspicious orders which the defendants have filled. The Complaint further alleges the defendants failed to provide effective controls and procedures to guard against diversion of controlled substances. The complaint alleges these defendants violated the West Virginia Consumer Care Credit and Protection Act, Unfair Methods of Competition or Unfair or Deceptive Acts or Practices Act, and various other statutes which has negligently and unlawfully contributed to the epidemic of prescription drug abuse in the state. The

State's action was removed to the United States District Court for the Southern District of West Virginia. The federal court remanded the case to the state in March of 2013. The complaint seeks a permanent injunction which mandates the defendants to promptly inform the West Virginia Board of Pharmacy of any and all suspicious orders received from parties located in West Virginia and to submit their system for determining suspicious orders to West Virginia authorities for approval, damages and losses sustained to the state as a result of the aforementioned violations, and other relief.

A scheduling conference was held in Boone County Circuit Court on September 9, 2013. This matter was originally scheduled for trial on October 21, 2014, but was subsequently continued. The Court directed the parties to mediation. A two-day mediation was held on October 23-24, but a resolution was unable to be achieved.

3.

State of West Virginia ex rel. Patrick Morrissey v. Basset Construction and Mike Brown, Individually, and d/b/a as Basset Construction
(Civil Action No. 13-C-280 – Circuit Court of Putnam County)

On August 21, 2013, the Attorney General filed a Complaint and Petition for Preliminary and Permanent Injunction in Putnam County Circuit Court against Basset Construction and Mike Brown, individually, and d/b/a Basset Construction. The State alleges that the contractor violated the Consumer Protection Act as well as the legislative rules regulating home improvement. The contractor had multiple prior complaints filed with the Attorney General in 2004, 2005, 2010 and 2011. This most recent complaint stems from a contract to construct a garage in Putnam County.

Defendant was paid \$17,500 and did not complete the work and has been unresponsive to the consumer as well as this office.

On June 16, 2014, Judge Reeder granted the Plaintiff's motion for summary judgment, and ordered that Mike Bassett be permanently enjoined from engaging in business in the state of West Virginia as a contractor, and awarding the State judgment in the amount of \$5,000.00, which represents a civil penalty for the defendants' failure to comply with the terms of the assurance of discontinuance.

4.

State ex rel. Morrisey v. Blackburn Preowned Autos, LLC **(Misc. Action No. 14-C-821-B – Circuit Court of Raleigh County)**

In August 2014, the Attorney General filed suit to enforce a subpoena it had issued against Defendant. After receiving numerous consumer complaints, the Attorney General commenced an investigation into the business practices of Blackburn Preowned Autos, located in Raleigh County. Blackburn sells used vehicles to consumers, most on a buy-here, pay-here basis. That is, Blackburn provides the financing to consumers who cannot pay cash or obtain financing from a bank.

Most consumers complained about vehicles breaking down shortly after purchasing the vehicles from Blackburn. Consumers also complained about Blackburn's financing, collection and repossession activities. Attorney General Morrisey issued an investigative subpoena to determine if there were violations of the Act. Blackburn failed to respond to the subpoena.

Prior to a hearing on the Attorney General's petition to enforce, an agreement was reached with Blackburn which required Blackburn to produce documents requested in the subpoena to the Attorney General.

5.

State of West Virginia ex rel. Patrick Morrissey, Attorney General v. Bristol-Meyers Squibb Company; Sanofi-Aentis, US, LLC
(MDL No.: 2418, United States District Court of New Jersey)

On December 28, 2012, The Attorney General's Office filed a lawsuit against the Defendants pursuant to the West Virginia Consumer Credit and Protection Act, based on alleged false and misleading marketing of the prescription drug Plavix. Specifically, the Complaint alleged that Defendant promoted Plavix as a superior drug to Aspirin for certain indicated cases without justification and charged excessive amounts for the drug despite the fact that the drug did not have superior efficacy to Aspirin. On February 1, 2013, the Defendant's removed the matter to Federal Court. Following the removal, the matter was consolidated to the United State Judicial Panel on Multidistrict Litigation, MDL Number 2418, pending in the United States District Court in the District of New Jersey. The state of West Virginia filed a motion to remand and argument was held before the MDL on August 22, 2013. The matter has been remanded to Marshall County, and a subsequent motion to dismiss filed by the Defendants has been denied.

6.

State of West Virginia ex rel Patrick Morrissey v.
Cardinal Health, Inc.
(Civil Action No. 12-C-140 – Circuit Court of Boone County)

On June 26, 2012, the Office of the Attorney General filed a Complaint and Petition for temporary and permanent injunction against Cardinal Health, Inc.

The Complaint and Petition alleged that Cardinal acted negligently, and recklessly, by failing to diligently respond to suspicious orders which it had filled. The Complaint further alleges the defendant failed to provide effective controls and procedures to guard against diversion of controlled substances. The complaint alleges this defendant violated the West Virginia Consumer Care Credit and Protection Act, Unfair Methods of Competition or Unfair or Deceptive Acts or Practices Act, and various other statutes which has negligently and unlawfully contributed to the epidemic of prescription drug abuse in the state. The State's action was removed to the United States District Court for the Southern District of West Virginia. The federal court remanded the case to the state in March of 2013. The complaint seeks a permanent injunction which mandates the defendant to promptly inform the West Virginia Board of Pharmacy of any and all suspicious orders received from parties located in West Virginia and to submit their system for determining suspicious orders to West Virginia authorities for approval, damages and losses sustained to the state as a result of the aforementioned violations, and other relief.

A scheduling conference was held in Boone County Circuit Court on September 9, 2013. This matter was originally scheduled for trial on October 21, 2014, but was

subsequently continued. The Court directed the parties to mediation. A two-day mediation was held on October 23-24, but a resolution was unable to be achieved.

7.

State of West Virginia ex rel. Patrick Morrissey, Jr. v.
CashCall, Inc., et al.
(Civil Action No. 08-C-1964 - Circuit Court of Kanawha County)
(Supreme Court Appeal No. 12-1274)

The Attorney General commenced an investigation of CashCall, Inc. (CashCall), of Anaheim, California, in 2007 after learning that the company was making or arranging usurious loans for West Virginia consumers. These loans had interest rates of up to 99% per annum and were arranged over the Internet via an interactive website. The Attorney General's investigation was also prompted by consumer complaints alleging a wide range of abusive debt collection practices by CashCall. In response, CashCall asserted that its loans were actually made by a state-chartered bank in South Dakota, and, therefore, the Attorney General was preempted by federal law from regulating its practices.

On October 8, 2008, the Attorney General sued CashCall, a California corporation, and its president and CEO, J. Paul Reddam, in the Circuit Court of Kanawha County. The Attorney General asked the Court to permanently enjoin CashCall from making and collecting usurious loans in West Virginia, to void the loans, to issue refunds of all unlawful fees collected from consumers, and to comply with his investigative subpoena.

The three-day trial of the Attorney General's case against CashCall occurred on October 31 and November 1, 2011, and concluded on January 3, 2012 before Kanawha

Circuit Judge Bloom. On September 10, 2012, Judge Bloom issued a Final Order on Phase I of Trial: The State's Debt Collection Claims wherein he awarded \$2,292,000.00 to the State for 292 West Virginia consumers because of CashCall's abusive debt collection practices. On that date he also issued a Final Order on Phase II of Trial: The State's Usury and Lending Claims wherein he awarded \$11,505,687.96 in total relief for the 292 West Virginia consumers for the State's usury and unlawful lending claims, for a total relief of \$13,797,687.96. In addition, CashCall was ordered to cancel debts totaling \$2.3 million.

On October 10, 2012, CashCall and Paul Reddam filed an appeal from Judge Bloom's two rulings to the Supreme Court of Appeals of West Virginia. The Court issued a scheduling order on October 31, 2012. As of this date, the Court has not decided whether to grant oral argument to CashCall on its appeals of the orders entered by the trial court in Phase I and Phase II of the trial.

In both Phase I and Phase II, Judge Bloom also ruled that the Attorney General was entitled to be reimbursed for his costs, including reasonable attorney's fees, for the successful prosecution of the action against CashCall. However, the Court indicated that it would make a ruling on the amount of expenses and attorney's fees at a later date after the filing of an appropriate petition by the Attorney General and an evidentiary hearing. After a hearing on December 21, 2012, Judge Bloom entered an order on March 18, 2013 finding that Assistant Attorneys General had expended collectively a total of 999.5 hours in their representation of the State in the enforcement action against CashCall for which each were entitled to be reimbursed at the rate of \$350 per hour. Accordingly, the Court awarded the State a total of \$446,180.00 as reimbursement for

attorney's fees and \$9,787.94 as reimbursement for other costs expended in the case. CashCall has also appealed Judge Bloom's order awarding attorney's fees and costs to the Attorney General, which has been incorporated into the appeals of the orders in Phase I and Phase II that are already pending.

On May 30, 2014, the West Virginia Supreme Court issued a Memorandum Decision unanimously affirming all three orders issued by Judge Bloom against CashCall. In its Memorandum Decision, the Court agreed that Judge Bloom did not err when he applied the "predominant economic interest test" in finding that CashCall, and not the South Dakota Bank, was the true lender. The Court also agreed that the Attorney General may be reimbursed for his attorney's fees in the successful prosecution of actions to enforce the WVCCPA.

Following the Court's ruling, CashCall filed a petition for rehearing, which was denied August 16, 2014. CashCall then filed a motion to stay mandate pending the filing of a petition for writ of certiorari with the United States Supreme Court, which was denied on October 15, 2015. Although its motion to stay mandate was denied, CashCall has indicated that it does intend to appeal to the U. S. Supreme Court and it has until December 24, 2015 to do so.

8.

State of West Virginia ex rel. Patrick Morrissey v.
Cav's Coach Company, LLC, et al.
(Civil Action No. 13-C-1 – Circuit Court of Roane County)

On January 4, 2013, the Attorney General filed suit against Cav's Coach Company, LLC and its owners, Chris Cavender and Carol Cavender. The Attorney

General opened an investigation of Cav's Coach Company, a charter bus company based in Cross Lanes, West Virginia, after it failed to fulfill its obligations under a contract with Reedy Elementary PTO to transport 47 passengers from Clendenin, West Virginia to New York, New York. The Attorney General sued after Cav's Coach Company failed to make refunds to persons who purchased tickets for the trip that was ultimately canceled.

On January 4, 2013, an Agreed Order was entered in the Circuit Court of Roane County granting the Attorney General a judgment against Cav's Coach Company in the amount of \$6,800.00 to be used as refunds to persons who purchased tickets for the aborted trip. The Order also permitted Cav's Coach Company to pay the amount owed in installments of \$650.00 per month with the first payment due in January, 2013.

Despite the Agreed Order, the Defendant failed to perform as Ordered. Accordingly, the State filed a Petition for Contempt with the Court. A hearing was scheduled on our petition for contempt against the defendants in this case before Roane County Circuit Court Judge Nibert on September 11 at 11:30 am but was continued due to an injury to one of the defendants.

9.

State of West Virginia ex rel. Patrick Morrissey, Jr. v.
Cavalry SPV I, LLC, et al.
(Civil Action No. 10-C-994 - Circuit Court of Kanawha County)
(Supreme Court Appeal Nos. 11-1564 and 12-0546)

On June 3, 2010, the Attorney General sued four affiliated New York-based collection agencies and their principals for collecting debts in West Virginia without a license and for other violations of the WVCCPA. The corporate defendants include

Cavalry SPV I, LLC, Cavalry SPV II, LLC, Cavalry Investments, LLC, and Cavalry Portfolio Services, LLC, North Carolina corporations. All of the corporate defendants are debt buyers, except for Cavalry Portfolio Services, which is a third-party collection agency that collects debts for its affiliates as well as other outside parties.

On August 22 and 23, and continuing on September 9, 2011, the court heard testimony and evidence on the Attorney General's motion for a temporary injunction and for enforcement of its investigative subpoena against the Cavalry companies. The court entered an order on October 7, 2011, granting a temporary injunction and ordering the four Cavalry companies to comply with the Attorney General's investigative subpoena within 60 days. Specifically, the court enjoined Cavalry SPV I, Cavalry SPV II, and Cavalry Investments from continuing to collect debts that they acquired prior to the time they became licensed in October, 2010.

The court also ordered the company to release all garnishments and wages and to release all liens and attachments from personal and real property arising from court judgments they obtained prior to the time they became licensed. The court also ordered the Cavalry companies, in conjunction with the Attorney General, to notify all consumers of the injunction. The court permitted Cavalry to continue to accept payments made voluntarily by consumers, after notice of the injunction, but required Cavalry to place all such funds received into escrow and to make periodic accounting to the Attorney General of all such payments received.

Calvary filed an appeal to the Supreme Court of Appeals of West Virginia from the October 7, 2011 order requiring it to comply with the Attorney General's subpoena. In addition, Cavalry also filed a separate appeal to the Supreme Court from that

provision of the order that enjoined Cavalry from continuing to collect debts that it acquired before becoming licensed to collect debts in West Virginia.

On October 1, 2013, the Supreme Court heard oral argument on Cavalry's two petitions for appeal arising from the order entered by Kanawha Circuit Judge James Stucky on October 7, 2011.

On November 13, 2013, the Court issued an opinion unanimously upholding the Order of the Kanawha Circuit Court from which the Cavalry companies appealed. In its ruling, the court held that the circuit court did not exceed its authority in temporarily enjoining the Cavalry companies from continuing to collect debts that they acquired before they became licensed. The Court also held that the Attorney General is not required to hold an administrative hearing prior to issuing or enforcing an investigative subpoena; a subpoena may also include interrogatories in addition to requesting production of documents; and the filing of a civil action does not render the pre-existing subpoena moot as to those matters not encompassed in the civil action.

The case is currently in the discovery phase and is scheduled for trial on August 3, 2015.

10.

State of West Virginia ex rel. Patrick Morrissey v.
CCDN, LLC, et al.
(Civil Action No. 10-C-632 - Circuit Court of Kanawha County)

On April 1, 2010, the Attorney General CCDN, LLC, Robert K. Lock, Jr., and Philip Manger in the Circuit Court of Kanawha County. The State alleged the defendants were unlawfully engaged in debt settlement in West Virginia. Essentially,

defendants promised to settle consumers' credit card debts for less than what they owed. In its complaint, the State alleged that the defendants never provided the promised debt settlement services. Lock and Manger were both lawyers when the company was operating.

Defendants failed to mount any significant defense and judgment was granted in favor of the State on January 7, 2011. The Circuit Court of Kanawha County awarded the State \$29,918.75* in restitution plus \$130,000.00* in penalties. CCDN has since been dissolved. As of the date of this report, the State has not received any payment from the defendants. However during the reporting period, Phillip Manger was disbarred in the State of New York and Robert Lock was disciplined by the attorney regulatory authority in Illinois. Lock and the State of Illinois appealed the sanctions ordered.

11.

State of West Virginia ex rel. Patrick Morrissey, Attorney General v. Center Partners, Inc.,
(Civil Action No.: 12-C-123-N Circuit Court of Mason County, West Virginia)

On or about October 2, 2012, the Attorney General filed a complaint against Center Partners, Inc., for unlawful telemarketing activities, unlawful imposition of fees, and other unfair and unlawful acts as prohibited by the West Virginia Consumer Credit and Protection Act West Virginia Code § 46A-1-101, et seq., in connection with the marketing of credit card ancillary services such as identity theft protection. The Defendant in this case is a third party vendor for various banks and credit card companies. The Defendants filed a motion for a more definite statement on or about April 1, 2013. The Court denied the motion and discovery is ongoing in the matter.

12.

**State of West Virginia ex rel. Patrick Morrissey v.
Charles Roth, d/b/a Valley Pools and Spas Construction, et al.**
(Civil Action No. 05-C-432 - Circuit Court of Putnam County)

In late 2005, the Division filed suit against Charles Roth (Roth), a Dunbar resident, who for years had been installing swimming pools and performing other home improvements under the name Valley Pools and Spas Construction. Consumers complained that when they contacted Roth, he submitted impressive proposals with low bids and promises of "15-year" warranties. Once Roth received significant payments, consumers reported that he failed to complete the jobs and became increasingly difficult to reach. Some consumers reported that if they insisted he make all the repairs prior to final payment, Roth would threaten to physically harm them.

In January of 2006, the Circuit Court of Putnam County enjoined Roth from engaging in any home improvement business until the case was resolved. On March 30, 2007, Roth finally agreed to a permanent injunction forever barring him from engaging in home improvement business in the state. Roth was also ordered to pay \$80,000.00 in restitution to consumers, in monthly payments. During this reporting period, Roth has paid \$3,600.00.

13.

**State of West Virginia ex rel Patrick Morrissey, Attorney General/
v. Clear Rate Communications, Inc., a Michigan Corporation**
(Kanawha County Circuit Court, Civil Action No. 13-C-2357)

On or about December 20, 2013, the Attorney General filed a complaint against Clear Rate Communications, in addition to a petition for a temporary injunction. The

complaint alleged that Clear Rate Communications violated the WVCCPA, and the action sought to enjoin and restrain Clear Rate from engaging in unfair or deceptive acts or practices in connection with the sale of telecommunication services.

The complaint alleged specifically that Clear Rate passed off goods or services as that of another, namely, Frontier Communications, in violation of W.Va. Code §46A-6-102(7)(A) and §46-6-104. The complaint further alleged that Clear Rate's conduct created confusion or misunderstanding as to the source of goods or services in Clear Rate's cold-calling script, in violation of W.Va. Code §46A-6-102(7)(B) and §46-6-104. The complaint additionally alleged that Clear Rate's actions with regard to West Virginia consumers caused likelihood of confusion or misunderstanding as to affiliation, connection, or association with another, specifically Frontier, in violation of W.Va. Code §46A-6-102(7)(C) and §46-6-104. The complaint contained allegations of representing that Clear Rate represented an affiliation of or connection that it does not have with regard to Frontier, in violation of W.Va. Code §46A-6-102(7)(M) and §46-6-104. Misrepresentation, concealment, or omission of a material fact were further alleged in the complaint against Clear Rate in reference to the "Carrier Access Charge," which was not approved in the tariff, which is a violation of W.Va. Code §46A-6-102(7)(M) and §46-6-104.

Upon perfection of service against Clear Rate, Clear Rate filed a Motion to Dismiss, which Clear Rate amended after the Holt decision by the West Virginia Supreme Court of Appeals, and this office responded to that motion, and a hearing was held on or about July 19, 2014. Judge Zakaib signed the order denying the Defendant's motion to dismiss on July 24, 2014. The matter remains pending.

14.

State of West Virginia ex rel. Patrick Morrissey, Attorney General v. CVS Pharmacy, Inc., et al
(Civil Action No.: 09-C-226 Circuit Court of Boone County, West Virginia)

On July of 2009, the Attorney General sued CVS for failure to comply with West Virginia Code § 30-5-12B which requires the substitution of generics for name brand drugs. The statute also requires that cost savings be passed on to the purchaser. It is alleged that CVS did not pass on the prescription drug savings to purchaser when generic drugs were substituted for name brand drugs as required by the statute. The case was subsequently removed to the United States District Court and subsequently remanded. This case is closely related to matter of State of West Virginia ex rel. Patrick Morrissey, Attorney General v. Rite Aid of West Virginia, Inc. To date, no trial date has been set and discovery continues.

15.

State of West Virginia ex rel. Patrick Morrissey, v. Dominion Management Services d/b/a CashPoint, Michael Lester, ACAC, Inc. d/b/a Approved Cash Advance and Manuel Marrero
(Civil Action No. 12-C-644 - Circuit Court of Kanawha County)

The Office of the Attorney General filed a Petition to Enforce Investigative Subpoena on December 14, 2012 against Dominion Management Services d/b/a CashPoint and Michael Lester, and ACAC, Inc. d/b/a Approved Cash Advance, Virginia title lenders, after receiving complaints that they were abusing and harassing West Virginia consumers in the collection of delinquent accounts. Specifically, consumers

reported they were victimized by repeated and continuous telephone harassment, unlawful disclosure of alleged debts to consumers, employers, coworkers, relatives, family members and other persons not residing with the consumer, accusations of fraud or other conduct which would tend to disgrace or subject them to ridicule or contempt of society, and threats that failure to voluntarily relinquish possession of a vehicle that secures a loan may result in arrest or criminal prosecution.

The Attorney General's petition was initially assigned to Kanawha Circuit Judge Carrie Webster but was subsequently reassigned to Senior Status Judge James O. Holliday after Judge Webster was disqualified. Prior to the hearing on the merits of the Attorney General's petition, the Attorney General reached a full settlement with Respondents Approved Cash Advance and its owner, Manuel Marrero, and an order was entered dismissing them from the suit. The settlement with Approved Cash Advance is discussed elsewhere in this report.

On July 2, 2013, Judge Holliday heard the Attorney General's petition against the remaining Respondents, Dominion Management Services, Inc., d/b/a CashPoint and its owner, Michael H. Lester, after which he entered an order on September 19, 2013 requiring the Respondents to comply in full with the Attorney General's investigative subpoena within thirty (30) days after entry of the order. The Respondents have advised the Attorney General that they do not intend to appeal Judge Holliday's order and are in the process of complying with the investigative subpoena as of this date.

State of West Virginia ex rel. Patrick Morrissey, Attorney General v.
Thomas Matthews d/b/a Downtown Used Auto Sales
(Civil Action No. 14-C-366, Circuit Court of Cabell County)

On May 9, 2014, Attorney General Morrissey filed suit against the Defendant for multiple alleged violations of the West Virginia Consumer Credit and Protection Act. The Defendant, a used car dealership, engaged in a wide range of violations of the Act. In particular, the Complaint alleges that the Defendant was selling vehicles "as is" and misleading consumers of their warranty, in violation of the implied warranty of merchantability; failed to post Buyers Guides in the manner and form required by state and federal law; failed to disclose the terms and conditions of financing in the manner and form required by state and federal law; charged a "one-time \$100 contract fee" in each credit sale without disclosing the fee as a finance charge; charged unlawful debt collection fees to consumers; repossessed vehicles without first providing consumers with a notice of their right to cure default; failed to meet its obligations to consumers following a repossession; converted or unlawfully disposed of personal property left in vehicles it repossessed;

A scheduling order has been entered and discovery was to commence. The Defendant failed to comply with discovery and the State prevailed in the motion to compel discovery against the Defendant during a hearing before Cabell Circuit Court Judge Chiles on August 28, 2014. A deposition of the defendant was taken on September 30. On November 12, 2014, the State filed a Motion for Partial Summary Judgment in the matter. The matter remains pending.

State of West Virginia ex rel. Patrick Morrissey v.
Envision Payment Solutions, Inc., Gregory Mellott, and Julie Burrus
(Civil Action No. 12-C-623 - Circuit Court of Kanawha County)

On December 3, 2012, the Attorney General filed a Petition to Enforce Investigative Subpoena against Envision Payment Solutions, Inc. ("Envision"), a check guarantee company based in Atlanta, Georgia. The Attorney General's investigation was prompted by complaints alleging that Envision had engaged in a wide range of abusive collection practices, including telephone harassment, sending collection letter threatening that nonpayment may result in arrest or criminal prosecution, and continuing to collect dishonored checks after consumers advised that they were victims of stolen checks and forgery or that they otherwise disputed the debts.

On May 1, 2013, Kanawha Circuit Judge Charles King entered an order granting the Attorney General's petition and requiring Envision to comply in full with the subpoena within thirty (30) days after entry. As of this date, Envision has not done so. Instead, Envision filed two motions on July 10, 2013 asking the Court to reconsider its order. On August 1, 2013, the Attorney General filed a petition for contempt asking the Court to take such actions as may be necessary to compel Envision to comply with its previous Order. A hearing was held on Envision's motion and the Attorney General's Petition for Contempt on September 11, 2013. Since that time we have entered into several stipulations with Spilman asking the court to defer ruling in this case pending discussions over certain subpoenaed documents, and, as a result, Judge King has not ruled on our petition for contempt.

State ex rel. Patrick Morrissey, Jr. v.
Fast Auto Loans, Inc.
(Civil Action No.: 12-C-231 - Circuit Court of Jefferson County)

On June 14, 2012, the Attorney General sued Fast Auto Loans, Inc., a Virginia title lender, its parent company, Community Loans of America, Inc., and the president and CEO of both companies, Robert Reich, for engaging in abusive debt collection practices. The Attorney General alleged in the suit that Fast Auto Loans had engaged in a wide range of unlawful debt collection and other unfair or deceptive practices that violate the WVCCPA, including unlawful threats or coercion, oppression and abuse, unreasonable publication of debts to third parties, fraudulent, deceptive or misleading representations, unfair or unconscionable means, false threats of arrest or criminal prosecution, the collection of excess charges, and failure to meet legal obligations to consumers following seizure of vehicles that secure its loans.

Fast Auto Loans removed the Attorney General's suit to federal court on July 18, 2012. The State filed a motion to remand the case back to the Circuit Court of Jefferson County. On January 11, 2013, U.S. District Court Judge Gina Groh filed a memorandum opinion and order remanding the case back to the Circuit Court of Jefferson County to be heard by Judge Sanders.

A bench trial was scheduled for April 1, 2014. The case was settled pursuant to an Agreed Final Order entered on March 31, 2014. Fast Auto Loans, Inc. and Virginia Auto Loans, Inc. agreed to cancel approximately \$816,000 in consumer debt and to pay

\$450,000 to the State, of which approximately \$150,000 will be used as consumer restitution.

19.

State ex rel. Patrick Morrissey, Jr. v. GA Financial Trust 2002-A, et al.
(Civil Action No. 09-MISC-213 - Circuit Court of Kanawha County)

On June 11, 2009, the Attorney General filed a Petition to Enforce Investigative Subpoena against GA Financial Trust 2002-A and Arrow Financial Services, LLC, located in Delaware. The Attorney General commenced an investigation of GA Financial Trust 2002-A after receiving a complaint that it had purchased and was collecting defaulted credit card debts in West Virginia without the required license and surety bond. On August 25, 2010, a hearing was held in the Circuit Court of Kanawha County. At the Courts request, the parties submitted proposed findings of fact and conclusions of law outlining their respective positions.

Although no ruling had been issued, Kanawha Circuit Judge Carrie Webster was forced to disqualify herself from the case when GA's counsel of record was hired as her law clerk. The case was reassigned by random rotation to Kanawha Circuit Judge Paul Zakaib, Jr., who scheduled oral argument on the matter for December 19, 2013.

On February 28, 2014, Judge Zakaib entered an Order requiring G. A. Financial Trust and Arrow Financial Services to comply with the investigative subpoena. Arrow has appealed Judge Zakaib's order to the Supreme Court. A new scheduling order has not been established by the Court yet.

State of West Virginia ex rel. Patrick Morrissey, Attorney General v. GlaxoSmithKline, LLC, formerly SmithKline Beechum Corporation
(Civil Action No.: 12-C-085 Circuit Court of Wayne County, West Virginia)

Suit was initially filed by the Attorney General on March 30, 2012, alleging unfair and deceptive acts or practices and unfair methods of competition and wrongfully and illegally marketing, promoting, and selling the diabetes drug known as "Avandia". The complaint states that the Defendant spent hundreds of millions of dollars promoting Avandia in a false and/or misleading manner. The complaint further alleged that West Virginians that took the drug experienced severe adverse effects including myocardial infarction, myocardial ischemia, severe injury to the heart leading to cardiac arrest and death. The complaint alleges the violations of law including the West Virginia Consumer Credit and Protection Act. The Defendant initially filed various motions to dismiss and to prevent the Attorney General from using outside counsel in this litigation. After these motions were denied by the trial court, the Defendant filed a writ of prohibition to prohibit the use of outside counsel. On June 4, 2013, the West Virginia Supreme Court rejected the Defendants' argument and allowed the use of outside counsel. The writ was denied by the West Virginia Supreme Court of Appeals on June 4, 2013. See, State ex rel., Discover Financial Services Inc., v. Nibert, 231 W.Va. 227, 744 S.E.2d 625 (2013). Since that time, the parties have completed a settlement which resulted in payment of \$22,000,000.00 to the State of West Virginia.

State of West Virginia ex rel. Patrick Morrissey v.
Human Movement Management, et al.
(Civil Action No. 14-C-59, Putnam County Circuit Court)

Action was brought pursuant to the West Virginia Consumer Credit and Protection Act (W.Va. Code § 46A-1-101 *et seq.*); and West Virginia law to obtain penalties, restitution, and injunctive relief. The State of West Virginia, by and through Attorney General Patrick Morrissey (hereinafter “the State”), alleged that Defendants/Respondents intentionally caused the 2014 Charleston Dirty Girl Mud Run to be canceled in order to facilitate Human Movement Management’s buyout of the Dirty Girl Mud Run brand name/assets from 100 LLC. As a result of this conduct by Defendants/Respondents, more than 2,700 individuals paid for a service and expended monies to travel and participate in the event, and were then told the event was canceled and no refunds would be forthcoming.

The State brought this action to enjoin and restrain the Defendants/Respondents from engaging in unfair or deceptive acts or practices in the sale and advertising of tickets for group events the purpose of which, at least in part, purported to be to raise money for charitable organizations, and then failing to perform such event without refund or redress. The State seeks injunctive relief and other equitable relief including, but not limited to, reimbursement for consumers who were harmed by the Defendants’/Respondents’ business practices, court costs, investigative costs, attorneys’ fees, and civil penalties.

The matter remains pending and a scheduling conference has yet to be scheduled.

22.

State ex rel. Morrisey v. John Teague, individually, and d/b/a John's Tree Service & Landscaping, Inc. and Johns' Tree Service
(Civil Action No. 14-C-781 – Circuit Court of Raleigh County)

In August 2014, Attorney General Morrisey filed a civil action against John Teague in Raleigh County Circuit Court. Teague had been doing business as John's Tree Service and as John's Tree Service & Landscaping, Inc. Teague operated a residential tree cutting and trimming service in Raleigh County.

The office had received numerous complaints from customers for many years, complaining about poor workmanship, failure to complete jobs and damage to property. The office entered into an Assurance of Discontinuance with Teague several years ago. Teague failed to pay all money due under the Assurance of Discontinuance, and continued to violate the Act.

Shortly after the Attorney General's suit was filed, Teague filed bankruptcy in the U.S. Bankruptcy Court for the Southern District of West Virginia. The State's case has been stayed while Teague is in bankruptcy.

23.

State ex rel. Morrisey v. Legal Helpers Debt Resolution, LLC, et al.
(Civil Action No. 13-C-2330 – Circuit Court of Kanawha County)

In December 2013, Attorney General Morrisey filed an action against Legal Helpers Debt Resolution, LLC and its principals, Jeffrey Aleman, Thomas Macey, both of Chicago, Jason Searns of Denver and Jeffrey Hyslip of Ohio. The Attorney General alleged that the defendants were operating an unlawful debt settlement business in

West Virginia. The individual defendants are attorneys licensed in states other than West Virginia.

Defendants purported to provide legal services to individuals experiencing financial difficulty with their creditors, primarily credit cards. Defendants claimed to negotiate with credit card companies to lower balances in settlement of credit card debts. The Attorney General claimed that defendants misled and confused consumers about the services to be rendered and by whom. Consumers were led to believe the defendants would actually provide legal services. The State claimed that all services were provided by third party, non-lawyer, contractors, if at all.

To resolve the complaint, defendants entered an agreed order with the Attorney General, and paid to the State \$135,000.00 for consumer restitution and attorneys' fees and costs. Defendants also agreed to cease providing debt settlement services in West Virginia.

24.

State of West Virginia ex rel. Patrick Morrissey v.
Lender Processing Services, Inc., et al.
(Civil Action No. 13-C-210 - Circuit Court of Kanawha County)

In January 2013, the Attorney General joined 44 states and the District of Columbia in a settlement with Lender Processing Services, Inc., and its subsidiaries, LPS Default Solutions and DocX. A consent order was filed along with the complaint in Kanawha County Circuit Court.

The Jacksonville, Florida based company agreed to reform its business practices related to mortgage foreclosure services and pay the State \$203,595.00 as part of the

\$113 million multi-state settlement. LPS had been accused of “robo-signing” documents and other improper conduct related to mortgage loan default servicing. As part of the relief, LPS will enhance its oversight of the default services it provides and will review third-party fees to ensure the fees have been earned and are reasonable and accurate.

25.

State of West Virginia ex rel. Patrick Morrissey v.
Liberty Mutual Insurance Company, et al.
(Civil Action No. 11-C-2231 - Circuit Court of Kanawha County)

On December 15, 2011, the Attorney General filed a Complaint and Petition for Preliminary and Permanent Injunction against Liberty Mutual Insurance Company and Greg Chandler’s Frame & Body, LLC for repairing vehicles with used parts in violation of W. Va. Code § 46A-6B-1 et seq., Consumer Protection – Automotive Crash Parts. Liberty Mutual required body shops to repair vehicles with reconditioned, re-manufactured and used parts in violation of West Virginia law. In addition, Liberty Mutual failed to provide consumers with the proper notices and written statements required by West Virginia's automotive crash parts law.

It is unlawful in West Virginia for an insurance company to require the use of salvaged, used or reconditioned original equipment manufacturer crash parts when negotiating repairs of motor vehicles within three years of manufacture, without acquiring the motor vehicle owner’s consent.

In April 2012, Liberty Mutual agreed to stop requiring body shops to use salvaged parts while the matter is pending.

In December 2012, the circuit court entered an order permanently enjoining Liberty Mutual from requiring the use of salvaged parts to repair motor vehicles three years old or newer. Liberty Mutual has appealed the ruling and it is scheduled for oral argument in the West Virginia Supreme Court in March 2014.

26.

State of West Virginia ex rel. Patrick Morrissey v.
Liggett Construction and Donald Liggett, Individually
and d/b/a as Liggett Construction
(Civil Action No. 13-P-135 – Circuit Court of Marion County)

On August 26, 2013, the Office of the Attorney General filed suit against Liggett Construction and its owner Donald Liggett. The State filed the lawsuit because Liggett had failed to complete renovation, remodeling, or roofing services for at least three consumers who paid in advance for the work. Specifically, Liggett misled consumers about renovations and roof replacements, failing to keep numerous promises regarding completion dates and quality of services. Furthermore, the consumers found the work completed to be deficient and required additional labor and supplies to finish.

Liggett has failed to answer the State's complaint. The State seeks a final order permanently banning Liggett from undertaking contractor work, and requiring restitution for consumers who were harmed by the defendants' conduct, as well as civil penalties.

27.

State of West Virginia ex rel. Patrick Morrissey v.
McKesson Pharmaceutical
(Civil Action No. 14-P- 497, Circuit Court of Kanawha County)

On or about September 22, 2014, the Attorney General filed a Petition to Enforce Investigative Subpoena and for Related Relief against McKesson Pharmaceutical, a San Francisco-based distributor of pharmaceuticals, regarding the State's investigation into excessive distribution and/or oversupply by McKesson of opioid medication to multiple pharmacies in West Virginia. The Investigative Subpoena issued March 17, 2014, directed McKesson to produce certain specified documents and information to the Attorney General on or before April 15, 2014. McKesson failed to respond to the Investigative Subpoena. A show cause hearing on the State's petition to enforce was scheduled for November 20, 2014, before Kanawha Circuit Judge Jennifer Bailey. The hearing was postponed generally for January 2015, by agreement of the parties, to allow McKesson additional time to comply with the investigative subpoena. It is anticipated that McKesson will provide the information sought by the subpoena to avoid the hearing.

28.

State of West Virginia ex rel. Patrick Morrissey v.
Mid Valley Mart, LLC; Achraf Assi, et al.
(Civil Action No. 14-C-59, Circuit Court of Putnam County)

On February 14, 2014, the Office of Attorney General filed a Complaint and Petition for Injunctive Relief against Mid Valley Mart, LLC and its owner Achraf Assi. The complaint alleged Mid Valley Mart LLC increased the price of water during a

declared state of emergency arising out of the water contamination that occurred in the Kanawha Valley in January 2014. The Complaint specifically alleged that gallon jugs of water to \$3.39 on the morning of Jan. 10 at its two stores, which are located at 3706 Teays Valley Road and 2494 U.S. Route 60 in Hurricane. Previously, the store sold similar gallons of water for \$1.59.

The Circuit Court held a status conference on April 3, 2014 and directed the parties to mediation on May 23, 2014. A second mediation occurred on November 3, 2014. As a result of the mediation, the Defendants entered an Assurance of Discontinuance wherein they admitted improperly raising the price of some water products during a time of public emergency and agreed to pay a civil penalty of \$5,000.00.

29.

State of West Virginia ex rel. Patrick Morrissey v.
Midland Funding, LLC, and Midland Credit Management, Inc.
(Civil Action No. 12-C-433 - Circuit Court of Kanawha County)

On March 8, 2012, the Office of the Attorney General filed a Complaint and Petition for Preliminary and Permanent Injunction against Midland Funding, a Delaware corporation, and its sister corporation, Midland Credit Management, a Kansas corporation, for using false affidavits when obtaining default judgments against West Virginia consumers and for failing to include information required by law when suing a consumer in magistrate or circuit court for an alleged debt.

The Attorney General began his investigation into Midland's business practices upon receiving complaints from consumers that they had received repeated telephone

calls from Midland attempting to collect debts they did not owe. Some consumers also complained they had been sued for debts they did not owe on credit cards they never owned.

The Attorney General has entered into a settlement agreement with Midland wherein all post-judgment interest will be deleted from all West Virginia accounts; the State will receive \$55,000.00 to be used for consumer restitution and consumer education programs, and the special assistant attorney general was paid attorney fees in the amount of \$75,000.00. An order was entered on January 9, 2013 dismissing the case with prejudice in accordance with the terms of the settlement agreement.

30.

State of West Virginia ex rel. Patrick Morrissey v.
Morgan Drexen, Inc., et al.
(Civil Action No. 11-C-829 - Circuit Court of Kanawha County)

In May of 2011, the State sued Kansas attorney Lawrence W. Williamson, West Virginia attorney Rachelle McIntyre-Nicholson, Vincent D. Howard and Damian J. Nassiri, two California lawyers, their law partnership, Howard|Nassiri, Morgan Drexen, Inc., a Nevada company based in Los Angeles, and Walter J. Ledda, the principal owner of Morgan Drexen, in the Circuit Court of Kanawha County. The Attorney General alleged that the defendants had violated the Act by failing to give disclosures about the risks involved with a practice known as debt settlement and claiming to be able to negotiate a reduction in credit card debt in exchange for the payment of fees. Additionally, the defendants are not properly registered as a Credit Services Organization or properly registered under the state's Telemarketing Act. Moreover, the

State claims that Lawrence Williamson is misrepresenting that he is providing legal services to consumers in conjunction with the debt settlement services when he is not licensed to practice law in West Virginia.

In July of 2011, the trial court ordered the defendants to stop acquiring new customers in West Virginia, to escrow any fees or charges owed to the defendants from their business activities in West Virginia, and to continue to attempt to settle debts for their customers. An evidentiary hearing was held in September of 2011 with regard to the defendants' activities.

In July 2014, the circuit court entered judgment in favor of the Attorney General and against Morgan Drexen and one other defendant, Lawrence Williamson. The remaining defendants were found not liable for violations of the Act. Judgment was entered against Morgan Drexen in the amount of \$8,575,500.00 in civil penalties for violation of the Act and the Credit Services Organizations Act. In addition, Morgan Drexen was ordered to refund all fees paid to it by consumers, an amount estimated at \$1 million. Judgment was also entered against Williamson in the amount of \$1,225,000.00 in civil penalties for violations of the Act.

In addition to the monetary civil penalties, Morgan Drexen, its agents, managers, directors and employees were permanently enjoined from conducting any business in West Virginia.

During the reporting period, Morgan Drexen also entered into a consent order stipulating the amount of attorneys' fees and expenses for it to reimburse if it loses its appeal of the judgment. Morgan Drexen was ordered to pay \$107,043.00 in attorneys' fees and costs. Morgan Drexen and Williamson have appealed the decisions.

31.

State of West Virginia ex rel. Patrick Morrissey, Attorney General v. Nationwide Affinity Company of America, Nationwide Agribusiness Insurance Company, Nationwide Assurance Company, Nationwide General Insurance Company, Nationwide Company of America, Nationwide Mutual Fire Insurance Company, Nationwide Mutual Insurance Company, and Nationwide Property and Casualty Company
(Civil Action No.: 1:13-cv-02677 United States District Court Southern District of West Virginia)

On January 11, 2013, suit was filed alleging violations of the West Virginia Consumer Credit Protection Act based on the failure of Nationwide to give premium discounts as advertised to members of the Farm Bureau who purchased National insurance policies. The Defendants removed the matter to federal court and filed a motion to dismiss. In response, a motion to remand has been filed along with a response to the motion to dismiss. The matter was remanded by the federal court to Circuit Court of McDowell County. The proceedings were then stayed due to a federal class action pending in Ohio that related to similar issues as this matter. A motion to lift the stay has been filed and will be heard by the Court on December 11, 2014.

32.

State of West Virginia ex rel. Patrick Morrissey, Attorney General v. Intersections Insurance Services, Inc.
(Civil Action No.: 12-C-122-N Circuit Court of Mason County, West Virginia)

On or about October 2, 2012, the Attorney General filed a complaint against Intersections Insurance Services, Inc., for unlawful telemarketing activities, unlawful imposition of fees, and other unfair and unlawful acts as prohibited by the West Virginia Consumer Credit and Protection Act West Virginia Code § 46A-1-101, et seq., in connection with the marketing of credit card ancillary services such as identity theft

protection. The Defendant in this case is a third party vendor for various banks and credit card companies. The Defendants filed a motion for a more definite statement on or about April 1, 2013. The motion was denied by the Court and discovery is ongoing in this matter.

33.

State of West Virginia ex rel. Patrick Morrissey v.
Nutrigenomics Mfg., LLC, et al.
(Civil Action No. 12-C-127 - Circuit Court of Putnam County)

On April 30, 2012, the Attorney General filed a Complaint and Petition for Preliminary and Permanent Injunction against Nutrigenomics Manufacturing, LLC and Drew Green, the limited liability company's organizer (Nutrigenomic). The State brought the action to enjoin and restrain Nutrigenomics from engaging in unfair or deceptive acts or practices in its marketing, distribution, and sale of products and consumer goods.

Nutrigenomics manufactured and sold chemicals that are used to create synthetic controlled substances that imitate the effects of marijuana, ecstasy (MDMA), cocaine, and methamphetamine. These synthetic drugs are sold on the market as "incense," "bath salts," "plant food," and other false labels. Each of the synthetic drugs are harmful to humans and many cause any number of lasting physical and psychological side effects, and are illegal in West Virginia.

The Honorable Phillip Stowers entered an Agreed Order on July 18, 2012 in which Nutrigenomics agreed not to conduct business in West Virginia, represent or imply to consumers that the chemicals are lawful in West Virginia, or that the effects of the chemicals are harmless. The company has now been liquidated through

bankruptcy, and Drew Green has pled guilty to violating federal drug laws. He awaits sentencing.

In July 2013, Judge Stowers permanently enjoined Neutragenomics and Green from doing any business in West Virginia. The State awaits a ruling on civil penalties.

34.

Consumer Financial Protection, et al v.
Ocwen Financial Corporation, et al
(U.S. Court of Appeals, District of Columbia, Case # 14-5265)

On December 19, 2013, West Virginia Attorney General Patrick Morrisey joined 48 other States and the Consumer Financial Protection Bureau and filed suit against Ocwen Financial Corporation for servicing and other significant problems surrounding their mortgage loans. After negotiations, a Consent Judgment was entered by the CFPB, the states and Ocwen on February 26, 2014. This Consent Judgment was in essence very similar to the multistate settlement reached earlier, wherein Ocwen was fined , would give consumers principal reductions and also modify loans were standards were broken. The settlement as with the Multistate was and is being monitored by National Administrator Joe Smith to ensure the settlement is being followed.

The settlement is still active and mortgages are being modified and principal being reduced. A *Pro Se* appeal was filed and is in active litigation in The United States Court of Appeals, which is being handled by the Consumer Financial Protection Bureau on behalf of the states.

State of West Virginia ex rel. Patrick Morrissey v.
Procorp Debt Solutions
(Civil Action No.: 12-MISC-244 - Circuit Court of Kanawha County)

On May 1, 2012, the Attorney General filed a subpoena enforcement suit against Procorp Debt Solutions, a Boca Raton, Florida debt settlement company, for refusing to comply with the State's subpoena. Procorp engaged in the controversial practice of providing a type of debt relief service for consumers commonly known as A debt settlement.

Kanawha Circuit Judge Zakaib entered an order on June 26, 2012 compelling Procorp to comply with the subpoena and enjoining it from providing or continuing to provide debt relief or other services to consumers in West Virginia until such time as it complies in full with the subpoena and also becomes licensed and bonded to provide such services by the appropriate state agencies.

On January 1, 2013 the Attorney General filed a petition for contempt against Procorp after it failed to comply with Judge Zakaib's order requiring that it comply in full with the Attorney General's investigative subpoena. Thereafter, the Attorney General entered into an Assurance of Discontinuance with Procorp discussed elsewhere in this report that fully resolved the underlying investigation. In accordance with the settlement, an order was entered by the Court on May 1, 2013 dismissing the petition for contempt.

36.

State of West Virginia ex rel. Patrick Morrissey, Attorney General
v. Quick Silver Restoration, LLC, and Wannis Allen, Jr.
(Civil Action No. 14-C-1952 Circuit Court of Kanawha County, West Virginia)

On or about October 31, 2014, the Attorney General filed a complaint against Quick Silver Restoration, LLC, and its owner, Wannis Allen, Jr., of Hurricane, West Virginia, for unlawful and deceptive acts and practices and unfair competition in connection with aggressive door-to-door sales tactics used to pressure homeowners into signing legally deficient contracts that required them to use Quick Silver to replace their roofs, required them to sign over 100% of insurance proceeds prior to any work being done, failed to provide a contract price and completion date for the job, and misrepresented the buyer's three-day right to cancel. The defendants have been served and their responses to the complaint are due December 5, 2014.

37.

State of West Virginia ex rel. Patrick Morrissey v.
Reed's Upholstery and David Reed
(Civil Action No. 12-C-1493- Circuit Court of Kanawha County)

In July 2012, the State sued David Reed and his upholstery business for multiple unfair or deceptive business practices. Reed sometimes took furniture and money and then refused to return either. After a preliminary injunction was imposed in August 2012, Reed entered an agreed order to settle the matter. Reed agreed to fix and return furniture, post a performance bond with the court and pay the State \$3,000.00. Shortly after the settlement, Reed fixed and returned furniture as promised, repaid a customer

who cancelled a job, and made the first payment of \$200.00 towards satisfying the \$3,000.00 judgment. During this reporting period, Reed paid the remaining \$1,300.00, satisfying his obligations under the terms of the consent order.

38.

State of West Virginia ex rel. Patrick Morrissey, Attorney General v.
Rite Aid of West Virginia, Inc.,
(Civil Action No.: 09-C-217 Circuit Court of Boone County, West Virginia)

On July of 2009, the Attorney General sued Rite Aid of West Virginia, Inc., for failure to comply with West Virginia Code § 30-5-12B which requires the substitution of generics for name brand drugs. The statute also requires that cost savings be passed on to the purchaser. It is alleged that Rite Aid did not pass on the prescription drug savings to purchaser when generic drugs were substituted for name brand drugs as required by the statute. The case was subsequently removed to the United States District Court and subsequently remanded back to Boone County Circuit Court. Renewed motions for summary judgment and motions to compel were heard on November 7, 2013. These issues were subsequently submitted to the West Virginia Supreme Court as certified questions. The Supreme Court declined acceptance of the certified questions. The matter remains pending in the Circuit Court of Boone County.

39.

State of West Virginia ex rel. Patrick Morrissey, Attorney General v. Shanklin Funeral Home, Inc. and Zivo Walkup, Director

(Civil Action No.: 14-C-187-R Circuit Court of Greenbrier County, West Virginia)

On or about October 31, 2014, the Attorney General filed a complaint against Shanklin Funeral Home, Inc. and Zivo Walkup, director, alleging unfair acts or practices in connection with the sale and production of cemetery goods and services. The complaint alleged that the Defendants violated the West Virginia Consumer Credit and Protection Act when they took payment from consumers without delivering the purchased goods and services. Consumers would purchase a monument or headstone to be placed on a deceased loved one's gravesite; however, those goods and services were never produced.

The pending enforcement action seeks a final order permanently banning Defendants from engaging in the sale of any cemetery goods and services, restitution for aggrieved consumers, as well as civil penalties, punitive damages, and interest on all judgments.

40.

State of West Virginia ex rel. Patrick Morrissey, Attorney General v. Sitel Corporation

(Civil Action No.: 12-C-124-N Circuit Court of Mason County, West Virginia)

On or about October 2, 2012, the Office of the Attorney General filed a complaint against the Sitel Corporation for unlawful marketing activities, unlawful imposition of fees, and other unfair and unlawful acts as prohibited by the West Virginia Consumer

Credit and Protection Act West Virginia Code § 46A-1-101, et seq., in connection with the marketing of credit card ancillary services such as identity theft protection. The Defendant in this case is a third party vendor for various banks and credit card companies. A motion to dismiss was filed on May 13, 2013. The parties are awaiting ruling on this motion. The motion has been denied and discovery remains ongoing.

41.

State of West Virginia ex rel. Patrick Morrissey v. Spiker's Upholstery and Peter Spiker, Individually and d/b/a as Spiker's Upholstery
(Civil Action No. 13-C-608 – Circuit Court of Monongalia County)

On August 20, 2013, the Office of the Attorney General filed suit against Spiker's Upholstery and its owner Pete Spiker. The State claims Spiker misled consumers, promising to reupholster furniture which he never did. Spiker also used high pressure sales tactics at the homes of dozens of unsuspecting consumers to demand immediate payment in full for services never to be undertaken or done in such a poor way as to require the job to be completely redone.

The Attorney General's lawsuit seeks to bar Spiker from performing any further reupholstery work, cancel all outstanding contracts, refund all money owed to consumers, and return all furniture. Since the action commenced, the State has received many additional written complaints against Spiker.

A hearing was subsequently conducted by the Circuit Court in May of 2014. After the hearing, the circuit court entered partial judgment against the defendants in October in the amount of \$125,000.00 for civil penalties. The matter is still pending, awaiting final disposition for consumer restitution.

**The United States of America, The Consumer Financial Protection
Bureau, The State of West Virginia, et al., v. SunTrust Mortgage, Inc.**
(United States District Court, District of Columbia)

On June 17, 2014, West Virginia State Attorney General Patrick Morrissey and 48 other states, the District of Columbia, the U.S. Department of Justice (DOJ) and the U.S. Department of Housing and Urban Development (HUD) filed suit against SunTrust Bank as part of an agreed consent judgment. The agreement with Sun Trust provides direct payments to borrowers for past foreclosure abuses, loan modifications and other relief for borrowers in need of assistance, tough new mortgage servicing standards, and grants oversight authority to an independent monitor. The settlement included a \$550 million settlement for consumers across these 49 states and the District of Columbia, and reflected no monies for any of the states.

The terms of the SunTrust settlement mirrored the terms of the National Mortgage Settlement, and even included the same monitor for the Settlement, Joseph A. Smith. The terms of the settlement with SunTrust require SunTrust to substantially change how it services mortgage loans, handles foreclosures, and ensures the accuracy of information provided in federal bankruptcy court. The terms of the settlement will prevent past foreclosure abuses, such as robo-signing, improper documentation and lost paperwork.

The settlement creates dozens of new consumer protections and standards, including:

- Making foreclosure a last resort by first requiring SunTrust to evaluate homeowners for other loss mitigation options;

- Restricting foreclosure while the homeowner is being considered for a loan modification;
- New procedures and timelines for reviewing loan modification applications;
- Giving homeowners the right to appeal denials;
- Requiring a single point of contact for borrowers seeking information about their loans and maintaining adequate staff to handle calls.

Approximately 184 eligible West Virginia borrowers whose loans were serviced by SunTrust and who lost their homes to foreclosure from January 1, 2008 through December 31, 2013 and encountered servicing abuse are eligible for a payment from the national \$40 million fund for payments to borrowers. The portion of this settlement to provide relief to West Virginia borrowers is \$264,848. Disbursements from this amount and the borrower payment amounts will depend on the number of borrowers who file claims.

The national settlement coordinator is responsible for contacting eligible borrowers about how to qualify for payments. This office is not responsible for handling the claims made by consumers under this settlement, which differs from the National Mortgage Settlement. Additionally, no direct monies were awarded to the Attorneys General for the individual states.

While a Complaint has been filed in anticipation of the Consent Judgment, the Court has not approved the settlement yet.

43.

State of West Virginia ex rel. Patrick Morrissey, Attorney General v.
Sykes Enterprises, Inc.
(Civil Action No.: 12-C-125-N Circuit Court of Mason County, West Virginia)

On or about October 2, 2012, the Office of the Attorney General filed a complaint against Sykes Enterprises, Inc., for unlawful telemarketing activities, unlawful imposition of fees, and other unfair and unlawful acts as prohibited by the West Virginia Consumer Credit and Protection Act West Virginia Code § 46A-1-101, et seq., in connection with the marketing of credit card ancillary services such as identity theft protection. The Defendant in this case is a third party vendor for various banks and credit card companies. A motion to dismiss was filed on April 1, 2013. The motion was denied and discovery is ongoing.

44.

Thompson's Gas & Electric Service, Inc. v.
Patrick Morrissey
(Civil Action No. 12-MISC-398 - Circuit Court of Kanawha County)

The Attorney General issued a subpoena to Thompson's Gas & Electric Service on July 3, 2012. Our investigation was prompted by complaints indicating that Thompson was engaged in a wide range of unfair or deceptive acts and practices, including misleading consumers about the terms and conditions of service and seizing tanks containing propane already paid for by consumers without reimbursing them. Thompson's Gas & Electric Service filed a Motion to Quash Administrative Subpoena on August 2, 2012, in the Circuit Court of Kanawha County. A hearing was scheduled for November 8, 2012, but was continued when the parties agreed to try to meet and

resolve their differences. As of this date Thompson's has not complied with the subpoena and the motion to quash remains pending.

45.

State of West Virginia ex rel Patrick Morrissey, Attorney General
v. United Construction and Paving
(Mercer County Circuit Court, Civil Action No. 14-C-517)

The Attorney General filed a complaint against this business on September 19, 2014. The complaint alleged multiple violations of the Legislative Rule Pertaining to Prevention of Unfair or Deceptive Acts or Practices in Home Improvement Transactions, C.S.R. 142-5-2.7, including accepting monies and failing to complete work, poorly completed work, and accepting money for work that was never done. The Complaint asked the Court for both a permanent injunction against the contractor, and for a temporary injunction during the pendency of this action.

Some of the allegations included in the complaint include a consumer who was convinced to allow the contractor to seal a portion of existing asphalt, and then to pave over that just-sealed section in order to pave a new area. Another consumer reported having the grass removed and a driveway grated, paying for the driveway paving, and United Construction and Paving never returning to put down any asphalt in the driveway.

The business failed to answer the complaint by October 19, 2014. A motion for default judgment has been submitted to the Court, and all affidavits regarding the consumers' damages are being compiled.

State of West Virginia ex rel. Patrick Morrissey v.
Wholesale Used Cars, Inc.
(Civil Action No. 03-C-2839 - Circuit Court of Kanawha County)

Wholesale Used Cars, Inc. was a buy here-pay here used auto dealer located in Charleston, West Virginia. In November 2003, the Division sued Wholesale, Charles Parker, Owner, and Jeryl Parker, President (Wholesale). Consumers complained that Wholesale sold them used vehicles that became inoperable shortly after purchase. A review of Wholesale's loan documents revealed numerous additional violations, including disclaiming the implied warranty, asserting a right to collect a late fee before expiration of the 10-day grace period, charging late fees that exceeded the statutory permissible fee, and failing to provide the disclosures required by the Truth in Lending Act, 15 U.S.C. § 1638 et seq. At a preliminary injunction hearing held on January 9, 2004, Wholesale agreed to be enjoined from further financing of autos until such time as it adopted loan documents that complied with the requirements of state and federal law.

After a fact finding hearing conducted by a special commissioner appointed by the Court, an order was entered on October 11, 2005, requiring the defendants to pay the State \$28,616.34 in consumer restitution in 24 monthly payments and to pay \$28,616.34 in civil penalties. As of this date, Charles Parker has repaid the \$28,616.34 in consumer restitution, which has been distributed to 14 consumers who have been aggrieved by the dealer's practices. However, Charles Parker has defaulted on the amount owed for civil penalties. As of this date he has paid \$5,271.26 and currently owes an additional \$18,073.92 in civil penalties.

Assurances of Discontinuance/Settlement Agreements

In addition to the resolutions and assurances discussed in the foregoing case summaries, the following Assurances of Discontinuances/resolutions were entered into during the reporting period.

1.

In the matter of 100 LLC

100 LLC is a Wisconsin-based company that conducts business in multiple locations throughout the United States, including specifically the State of West Virginia, under the name Dirty Girl Mud Run. The Dirty Girl Mud Run is a themed 5K race in which participants run through a pre-designed course full of mud stations and obstacles. On July 22, 2014, the 2014 Dirty Girl Mud Run in Charleston, West Virginia was canceled. An estimated 2,700 participants had registered and paid a registration fee. On the same day, 100 LLC issued a statement that no refunds were going to be given for paid registration fees. 100 LLC's no-refund position was premised upon the registration agreement signed by all participants.

Within 24-hours, the West Virginia Attorney General's Office had received over 250 complaints. The office opened an investigation and directed a subpoena to 100 LLC. 100 LLC was cooperative in the investigation, and ultimately executed an Assurance of Discontinuance on August 11, 2014. As part of the Assurance, 100 LLC agreed to refund registration to participants that were not refunded from another source. 100 LLC also agreed to provide a master list of registrants and conform its future business practices to ensure compliance with consumer protection laws.

2.

In the matter of Affordable Used Auto Sales

Affordable is a used motor vehicle dealership located in Berkeley Springs, West Virginia, signed an assurance of discontinuance on November 17, 2014. Affordable failed to post any Buyers Guides on vehicles it offered for sale for a substantial period of time, as required by the FTC Used Vehicle Rule. It limited its obligations to consumers under the implied warranty of merchantability in the sale of used motor vehicles and the implied warranty of merchantability, and sought to foreclose certain rights that consumers have under the WVCCPA by using a sales document containing the statement "ALL SALES FINAL."

As part of its Assurance of Discontinuance entered into with the Attorney General's office, Affordable agreed to pay \$2,000 to the State of West Virginia and to have all future sales practices comply with the West Virginia Consumer Credit and Protection Act.

3.

In the matter of AT&T Wireless

On October 6, 2014, AT&T Mobility entered into a settlement with the West Virginia Attorney General's Office to resolve allegations regarding cramming, placing charges on consumers' mobile telephone bills for these services without the consumer's knowledge or consent. The settlement was part of a national, multistate settlement. West Virginia's portion of the settlement was \$235,000.

4.

In the matter of Bragg's Used Cars

After receiving several complaints from consumers, the Attorney General's office opened an investigation into the used car business, Bragg's Used Cars, located in Cabell County. Bragg's sells cars to consumers on a buy-here, pay-here basis as well as cash transactions. The Attorney General's Office opened an investigation into the matter. The investigation revealed multiple violations of credit disclosure laws and violations of collection laws.

Throughout the investigation, Bragg's Used Cars was cooperative and ultimately agreed to enter into an Assurance of Discontinuance. In addition to agreeing to conform his business practices to applicable law, Bragg's paid \$500.00 to the State. Bragg's also agreed to use appropriate Truth-in-Lending forms and to cease using forms that improperly released it from liability for violations of the Act.

5.

In the matter of Car Credit Center, LLC

The financing arm of a used car dealership, Car Credit Center, LLC of Upshur County, came under investigation after consumer complaints were submitted to the Attorney General's office. Rather than selling cars and providing "buy-here, pay-here" financing, a dealership set up a separate company to handle the financing.

After financing purchases of motor vehicles, Car Credit Center, sometimes had to repossess motor vehicles when borrowers did not pay. On the subsequent sale of the

motor vehicles, Car Credit Center sold the vehicles “as is,” attempting to disclaim any obligations under the implied warranties granted by state law.

Under West Virginia law, when a dealer sells motor vehicles to consumers, the implied warranties obligate the dealer to fix or repair major mechanical, electrical or thermal components that fail shortly after the consumer’s purchase. Because Car Credit Center was selling more than 5 motor vehicles a year, it was required to have a dealer’s license and honor implied warranties granted by law.

Throughout the investigation, Credit Center was cooperative and ultimately agreed to enter into an Assurance of Discontinuance. In addition to agreeing to conform its business practices to applicable law, Credit Center paid \$500.00 to the State.

6.

In the matter of Eddie Jones d/b/a Edwards Used Auto Sales

An Assurance of Discontinuance was entered into by Eddie Jones d/b/a Edwards Used Auto Sales of Jackson County, after an investigation by the Attorney General revealed that the motor vehicles dealership was using the wrong Buyers Guide on its vehicles for sale.

Federal and state law require a “Buyers Guide” to be posted in the window of every used car for sale which discloses warranty coverage for the motor vehicle. In West Virginia, motor vehicles cannot be sold to consumers “as is.” Under West Virginia law, all used vehicles sold by a dealer have implied warranties that require a dealer to fix or repair major mechanical, electrical or thermal components that fail shortly after purchase.

Jones was using a Buyers Guide that allowed “as is” sales. Due to Jones’s cooperation and acquisition of appropriate forms, he paid \$500 to the State and executed the Assurance of Discontinuance.

7.

In the matter of Eventbrite, Inc. d/b/a Eventbrite.com

Based in San Francisco, California, Eventbrite, Inc. is a national third-party ticketing service for events. Among the events it tickets for was the Dirty Girl Mud Run organized by 100 LLC that was scheduled to take place in Charleston, WV on July 25, 2014. On July 22, 2014, the 2014 Dirty Girl Mud Run in Charleston, West Virginia was canceled. An estimated 2,700 participants had registered and paid a registration fee. On the same day, 100 LLC issued a statement that no refunds were going to be given for paid registration fees. 100 LLC’s no-refund position was premised upon the registration agreement signed by all participants.

Within 24-hours, the West Virginia Attorney General’s Office had received over 250 complaints. The office opened an investigation into the matter. Upon learning of the refund refusal by 100 LLC and resulting impact on the consumers in West Virginia, Eventbrite, Inc. believed the participants should be refunded their monies in this particular situation and desired to provide full refunds to those participants that paid race fees through the Eventbrite.com website.

In recognition of the consumer complaints filed with the West Virginia Attorney General’s Office, Eventbrite, Inc. desired to work cooperatively with the Attorney General’s office to facilitate the refunds and ensure all appropriate participants are fully

refunded their race fees that were paid for through Eventbrite. Accordingly, on July 25, 2014, Eventbrite, Inc. executed a Refund Facilitation Agreement with the Attorney General's Office.

8.

In the matter of National Recovery Associates, LLC

National Recovery Associates ("NRA") a limited liability company located in Gainesville, Georgia, purchases charged-off accounts originally owed to others for collection. The Office received complaints regarding the collection practices of NRA and opened an investigation. On September 22, 2014, NRA agreed to execute an Assurance of Discontinuance agreeing to conform all business practices in compliance with the West Virginia Consumer Credit and Protection Act. As part of the Assurance, NRA agreed to pay \$2,000.00 to the State of West Virginia. Of this amount, \$1,000.00 is designated for use as restitution to consumers who, in the Attorney General's judgment, have been aggrieved by NRA's practices.

9.

In the matter of Northern Acquisitions Group, LLC and Southwestern Investors Group, LLC

Northern Acquisitions Group, LLC ("NAG") and Southwestern Investors Group, LLC ("SIG") are two unlicensed collection agencies based in Buffalo, New York. The Attorney General's Office opened an investigation after receiving complaints that these companies were making false representations and engaging in other unlawful conduct while attempting to collect overdraft fees allegedly owed to a bank. While the

investigation focused on both NAG and SIG, NAG ceased operations and is no longer in business.

On May 23, 2014, SIG entered into an Assurance of Discontinuance. As part of the Assurance, SIG agreed to become licensed and comply with State and federal consumer protection laws in its future business practices. SIG also agreed to pay \$2,500.00 to the State of West Virginia, of which \$1,000.00 is designated for use as consumer restitution.

10.

In the matter of Tri-Star Motors, Inc.

Tri-Star Motors, Inc., is a "buy here - pay here" car dealership located in Martinsburg, West Virginia. Tri-Star used credit agreements that did not disclose the terms and conditions of financing in the manner and form required by TILA and Regulation Z. After receiving complaints, the West Virginia Attorney General's Office opened an investigation into the business practices.

On January 29, 2014, Tri-Star Motors entered into an Assurance of Discontinuance, and agreed to conform its business practices with state and federal consumer protection laws. As part of the Assurance, Tri-State also agreed to pay \$8,000 for the purpose of making restitution to five consumer complainants. Tri-Star also paid \$10,000 to the State of West Virginia.

11.

In the matter of Umbrella Recovery Team LLC

Umbrella Recovery Team, LLC, of La Quinta, California, an unlicensed collection agency, entered into an assurance with our office on May 16, 2014. Umbrella is in the business of collecting charged-off accounts originally owed to others, including accounts allegedly owed by consumers residing in West Virginia. The Attorney General's Office received several complaints alleging that Umbrella engaged in certain debt collection practices in violation of the West Virginia Consumer Credit and Protection Act. Several of the alleged violations included, collecting debts without a proper license or bond and making misrepresentations in the course of the debt collection.

As part of the Assurance, Umbrella agreed to conform its business practices with state and federal consumer protection laws. Umbrella also agreed to \$5,000.00 to the State.

12.

In the matter of Vision Credit Solutions

On November 25, 2013, the Attorney General entered into an Assurance of Discontinuance with Vision Credit Solutions, LLC ("VCS"), a debt buyer based in Amherst, New York. The Attorney General opened an investigation of VCS after receiving a complaint reporting that VCS was collecting debts in West Virginia without a collection agency license from the State Tax Department and without a certificate of authority from the Secretary of State.

The Attorney General's Office contacted VCS to discuss the allegations. As part of that discussion, VCS represented that it had not yet collected any money from West Virginia consumers.

Notwithstanding, VCS agreed to enter into an Assurance of Discontinuance wherein it promised to comply with state and federal consumer protection law in its future business practices. VCS also agreed to close all of its West Virginia accounts with a zero balance.

13.

In the matter of Winchester Auto Dealers Exchange

Winchester Auto Dealers Exchange ("WADE") of Charles Town, West Virginia, signed the Assurance of Discontinuance on April 9, 2014. The Assurance followed an investigation by our office following a complaint that WADE sold vehicles "as is" and refused to make repairs to the vehicle.

Typically, auto auctions exclusively sell to dealers and other businesses. WADE, however, additionally sells to consumers. While vehicles may be sold "as is" to businesses, an auction that sells vehicles to consumers must also comply with the consumer protection laws, including implied warranties of merchantability, and thus cannot be sold "as is".

Under the terms of the Assurance, WADE, an auto auction, must comply with all state and federal consumer protection laws if it continues to sell vehicles to consumers. It also agreed to comply with applicable state and federal consumer protection laws in the future, and to make a full refund of \$8,590.35 to a consumer.

C. Antitrust Litigation

The Antitrust Division of the Office of the Attorney General is under the same management as the Consumer Protection Division and is charged with the responsibility of enforcing the West Virginia Antitrust Act, W. Va. Code § 47-18-1 et seq. The purpose of the Antitrust Act is to prevent unreasonable restraints of trade, monopolies, and attempts to monopolize trade. The Antitrust Division is staffed by one attorney and one paralegal. Under the Antitrust Act, the Attorney General is authorized to take legal action on behalf of the State and/or on behalf of its citizens to secure injunctive relief, restitution, civil penalties, damages, fees and costs.

1.

State of West Virginia ex rel. Patrick Morrissey, Attorney General v.
Acordia of West Virginia, Inc., et al
(Civil Action 05-C-115-W Circuit Court of Hancock County, West Virginia)

On or about May 19, 2005, the Office of the Attorney General sued Acordia Inc., and Acordia Of West Virginia, Inc., alleging violations of the antitrust act. Acordia, an insurance broker acts as a middle man between a company wanting to purchase insurance and companies offering insurance policies. The suit alleges that Acordia failed to disclose the backdoor commissions that are received from its clients. Moreover, the State alleged that Acordia steered its customers to insurers that paid higher contingent commissions. Contingent Commissions were paid, in part, based on the volume of business written by the broker and the profitability of the business written. The case had largely been dormant from 2006-2011. Summary Judgment motions

were filed in the summer of 2012. Supplemental briefs were filed in August of 2013, and on November 8, 2013, the Court entered an Order denying the motions for summary judgment and ordering discovery. Accordingly, discovery has been continuing and a December 23, 2014 trial has been set.

2.

State of West Virginia ex rel. Patrick Morrissey v.
Bank of America N.A.

(Civil Action No.: 09-C-113-N Circuit Court of Mason County, West Virginia)
(MDL No. 1950 U.S. District Court Southern District of New York)

On September 3, 2009, the State filed a complaint against Bank of America, NA, concluding that Bank of America had conspired with other financial institutions and brokers to fix prices bid for investment products called Guaranteed Investment Contracts ("GIC"). The GIC's are sold to State and municipal agencies as short term investments of larger sums of money obtained by the agencies from the sale of bonds. They are usually tax exempt. The State alleges the GIC's paid less interest than they would have in a competitive market due to the conduct of Bank of America. Bank of America removed the matter to the United States District Court for the Southern District of West Virginia.

The matter was transferred to the United States District Court for the Southern District of New York, and was joined with multidistrict litigation. Subsequently, the Attorney General's Office expanded the suit to include 24 companies as Defendants in the lawsuit. Currently all Defendants who have been brought into the action include Bank of America, NA, Merrill Lynch and Company, Inc., UBS Financial Services, Inc., UBS Securities, LLC, UBS AG, J.P. Morgan Chase and Company, J.P. Morgan

Securities, Inc., MBIA Inc., Morgan Stanley, Bayerische Landesbank, Girozentrale Financial Security Assurance, Inc., Assured Guaranty US Holdings Inc., Dexia S.A., G.E. Funding Capitol Market Services, Inc., Trinity Plus Funding Comapnay, LLC, Trinity Funding Company, LLC, Nitixis Funding Corp., Nitixis S.A., CDR Finanacial Products, Inc., George K. Baum and Co., and Investment Management Advisory Group, Inc.

In 2014, settlements were reached with J.P. Morgan in the amount of \$400,000.00; Morgan Stanley in the amount of \$150,000.00; and G.E. Funding in the amount of \$950,000.00. Discovery continues with respect to the remaining Defendants.

3.

State of West Virginia ex rel. Patrick Morrisey, Attorney General v. Comcast Corporation, et al

(Civil Action No.: 09-C-130-H Circuit Court of Marshall County)

(Civil Action 5:09-cv-00091fps- US District Court Northern District of West Virginia)

(Civil Action 2: 109-cv-0091fps- US District Court Eastern District of Pennsylvania)

In July of 2009, suit was filed against Comcast Corporation, Comcast Holdings Corporation, LLC, Comcast Cable Communications Holdings, Inc., alleging antitrust violations. Comcast requires customers to rent a converter box if customers want premium channels. The converter boxes are available for sale for less than a yearly rental fee from Comcast, but Comcast requires the rental fees to be able to access the premium channels. The matter was removed to Federal Court and then transferred to Eastern District of Pennsylvania. Currently, there is a pending nationwide class action settlement which would potentially resolve the claims in West Virginia. The matter has

been presented to the Court for a ruling, no ruling has been issued on the proposed settlement.

4.

State of West Virginia ex rel. Patrick Morrissey, Attorney General v. Minnesota Mining and Manufacturing Company, et al.
(Circuit Court of Lincoln County West Virginia)

On August 6, 2003, the Attorney General sued Minnesota Mining and Manufacturing Company, Mine Safety Appliance Company, and American Optical Corporation in Lincoln County. The State alleged that Defendants violated the West Virginia Consumer Credit and Protection Act by falsely advertising the capabilities of the masks they sold. Specifically, the State alleged that all of the dust masks were marketed for being safe and effective, the masks repeatedly failed. The Defendants removed this case to the United States District Court for the Southern District of West Virginia. In January 2005, the case was remanded to State Court. A motion to bifurcate was filed and remains pending.

5.

State of West Virginia, ex rel., Patrick Morrissey, Attorney General v. Pfizer, Inc., Pfizer-Ireland Pharmaceuticals, Warner-Lambert Company, LLC, Ranbaxy, Inc., Ranbaxy Pharmaceuticals, Inc., Ranbaxy Laboratories, LTD
(Civil Action No.: 13-C-1-N Circuit Court of Mason County, West Virginia)

On December 28, 2012, the Attorney General filed a complaint against the Defendants, alleging that various agreements and settlements between the Defendants

violated West Virginia Antitrust statutes as well as the West Virginia Consumer Credit Protection Act. The Defendants initially removed the action to Federal Court where it was subsequently remanded. The Defendants then filed Motions to Dismiss which were heard by the Court on October 7, 2013. The motion was denied and discovery is ongoing.

6.

State of California, et al. v. Infineon Technologies AG, et al.
(3:06- CV-04333 PJH - U.S.D.Ct. Northern District of California)
(MDL No. 1486 - San Francisco Division, Northern District of California)

On July 14, 2006, the Division filed a complaint along with 38 states against Infineon Technologies AG; Infineon Technologies North America Corp.; Hynix Semiconductor, Inc.; Hynix Semiconductor America, Inc.; Micron Technology, Inc.; Micron Semiconductor Products, Inc.; Mosel Vitelic, Inc.; Mosel Vitelic Corp.; Nanya Technology Corporation USA, Inc.; Nanya Technology Corporation; Elpida Memory, Inc.; Elpida Memory (USA), Inc.; and, NEC Electronics America, Inc. These companies and others are charged with conspiring to fix the prices of dynamic random access memory computer chips. The computer memory chips are used in personal computers, laptop computers, and other electronic devices, such as cell phones and personal digital assistants. Several of the companies have pled guilty to price fixing.

In early 2007, Samsung Semiconductor, Inc. and Samsung Electronics Co., Ltd., reached a settlement with West Virginia and the other litigating states. In total, Samsung agreed to pay the states \$10,000,000.00. Late in 2007, a second defendant group, Winbond Electronics Corporation and Winbond Electronics Corporation America,

settled its litigation with West Virginia and the other states. In total, Winbond agreed to pay the states \$500,000.00. In June 2010, the states and private class plaintiffs reached a settlement agreement with all the remaining defendants except the Nanya group. The remaining defendants agreed to pay about \$19,000,000.00 to the states. Later, the Nanya group of defendants reached a settlement agreement with the states. The Nanya group of defendants agreed to pay to the states \$424,800.00. The amount each state will receive from the settlement agreements has not been determined.

Final approval to all settlements was granted by the District Court on June 27, 2014. Individuals objecting to the settlements have filed notices of appeal in the U.S. 9th Circuit Court of Appeals and the matter remains pending while on appeal.

7.

State of Missouri, et al. v. AU Optronics Corp. et al. **(Case No. CV:10-3619 EMC - U.S.D.Ct. N.D. of California San Francisco Division)**

In August of 2010, the Attorney General joined four other states in a complaint against manufacturers of thin-film transistor liquid crystal display panels. The states claim that the companies conspired to fix prices, and restrict production of the panels to keep prices high. The LCD panels are used as computer monitors, in laptop computers and televisions. Most of the companies have pled guilty to federal price fixing charges. One of the defendants, AU Optronics, was found guilty of antitrust violations in a federal criminal trial during the reporting period.

The companies sued include: AU Optronics Corp. of Taiwan; Chi Mei Innolux Corp. of Taiwan; Hannstar Display Corporation of Taiwan; Hitachi Ltd. of Japan; LG Display Co. Ltd. of South Korea; Samsung Electronics, Co., Ltd. of South Korea; and

Sharp Corporation of Japan. Affiliates and subsidiaries of the companies were also named as defendants.

Settlements were reached with all defendants during the prior reporting period and West Virginia received civil penalties in the amount of \$766,923.56. The State will receive settlement money related to the State's purchases, but the amount is unknown at this time. Finally, a claims process that ended December 6, 2012 will pay refunds to consumers in an amount expected to be at least \$25.00 per claim.

All appeals of the final settlements were resolved in the summer of 2014. Thereafter, the trial court approved distribution of settlement funds to the States, including claims paid to consumers. The Attorney General's office received \$818,829.96 in restitution for state agency and county school district purchases and attorneys' fees and costs. An additional \$912,202.75 was paid to West Virginia individuals and businesses with valid, filed claims.

8.

State of Texas, et al. v. Penguin Group (USA) Inc. et al.
(Case No. 12-cv-03394 - U.S.D.Ct., Southern District of New York)
(11 MDL - 02293 - U.S.D.Ct., Southern District of New York)

In April of 2012, the Attorney General sued two book publishers and Apple, Inc. The publishers, Penguin Group (USA) Inc. and Holtzbrinck Publishers, LLC d/b/a Macmillan conspired to set the prices for electronically-distributed books (e-books). The publishers met with each other and other publishers - Hachette Book Group, HarperCollins and Simon & Schuster - to determine how to combat low prices charged by Amazon, Inc. for New York Times Best Sellers.

In a separate matter, Hachette, HarperCollins and Simon & Schuster settled with West Virginia and the other states joining in the multidistrict litigation in the United States District Court for the Southern District of New York. The U.S. Department of Justice filed a companion case against Apple and the publishers as well.

During the reporting period, the states reached settlements with Penguin and Macmillan. Penguin and Macmillan agreed to similar injunctive relief as the other publishers (Hachette, HarperCollins and Simon & Schuster). They agreed to sell their e-books on the wholesale/retail model that permits retailers to set the final retail price to consumers. Retailers such as Amazon are once again free to deeply discount retail prices as they did before the conspiracy. Under the terms of the settlements, Penguin agreed to pay \$75 million to the states for consumer relief and Macmillan agreed to pay \$20 million. In addition, the companies will pay the states' fees and costs in the amount of \$10 million. West Virginia's portion has not been determined. Final approval of the Penguin and Macmillan settlements is expected in December, 2013.

Also during the reporting period, the states tried the liability phase of the case against Apple along with the U.S. Department of Justice. The trial court ruled in favor of the government plaintiffs in July 2013, ruling that Apple had violated the antitrust laws. The Court then imposed injunctive relief on Apple in September. The relief prohibits Apple from entering into "agency" agreements with the publishers and prevents Apple from using "most favored nation" restrictions in its contracts that would guarantee it would never face pricing competition.

Apple, Simon & Schuster and Macmillan have appealed the terms of the injunctive relief imposed by the Court in September 2013. A trial on the states' damages claims and civil penalties was set for May 2014.

Prior to the start of the trial against Apple for damages and civil penalties, the States, private class plaintiffs and Apple reached a contingent settlement that received final approval from the trial court on November 21, 2014. The settlement is contingent on the outcome of Apple's appeal on the liability judgment entered against in 2013. If the States win all appeals, Apple will pay damages to consumers in the amount of \$400 million plus an additional \$20 million paid to the states for attorneys' fees and costs. If Apple wins all appeals, it will pay the States nothing. If the appellate court remands the matter for reconsideration or retrial, Apple will pay consumers \$50 million in restitution and an additional \$10 million to the States in fees and costs.

Oral argument on the appeal is scheduled for December 2014. A final decision from the U.S. Court of Appeals for the Second Circuit is not expected until 2015. In addition, it is likely that objectors to the Apple settlement will appeal the settlement.

9.

State of Texas, et al. v. Hachette Book Group, Inc. et al.
(Case No. 12-cv-6625 - U.S.D.Ct., Southern District of New York)

In the companion e-books case to the Penguin action, West Virginia and other states settled claims against Hachette Book Group, Inc., HarperCollins Publishers, LLC, Simon & Schuster, Inc. and Simon & Schuster Digital Sales, Inc. (Settling Publishers)

with regard to claims of price fixing e-books. During the reporting period, the court gave final approval to the settlement.

As part of the relief, the Settling Publishers are agreeing to stop selling e-books through an “agency” model but to resume sales as a wholesale distributor. This will allow retailers such as Amazon or Barnes & Noble to sell books at deep discounts. Under the agency model, the Settling Publishers set the retail prices. In addition, the companies agreed to pay the states approximately \$70,000,000.00 to compensate consumers, plus attorneys’ fees. West Virginia’s portion of the fees and costs, \$42,328.00 was received during the reporting period. Distribution to consumers was held up to combine the distribution with the proceeds from the Penguin and Macmillan settlements.

D. Preneed Unit

PRENEED FUNERAL UNIT

Attorney General Morrissey’s Preneed Funeral Division is responsible for recording and regulating the sale, management, and execution of preneed funeral contracts. The Preneed Funeral Division consists of an auditor, an administrative assistant, and a lawyer.

There are currently 272 funeral homes and 33 cemeteries licensed to sell preneed funeral contracts in West Virginia. The Preneed Funeral Division has two funded accounts. The West Virginia Preneed Regulation Fund was established to pay for the administration of the Preneed Funeral Division and is funded by fees paid by

consumers and funeral homes. The West Virginia Preneed Guarantee Fund was established to serve as an insurance account to protect consumers in the event a funeral home is financially unable to fulfill its preneed contractual obligations. As of December 1, 2014, the Regulation Fund had a balance of \$203,122.00, and the Guarantee Fund has a balance of \$543,486.00.

PRENEED FUNERAL UNIT LITIGATION

1.

State ex re. Patrick Morrissey v. Elk Funeral Home, et al.

(Civil Action No. 12-C-935 - Circuit Court of Kanawha County)

On May 22, 2012, the Office of the Attorney General filed suit against Elk Funeral Home and its owner, Billy Surratt. The State filed the lawsuit because Surratt had misappropriated funds belonging to more than 30 consumers who paid in advance for funeral arrangements. Ultimately, it was revealed that Surratt had failed to deposit consumers' money into trust accounts, and had not reported the funds to the Attorney General, as required by law. Elk Funeral Home and Surratt are currently enjoined from accepting advance payments from consumers and Surratt's assets have been frozen until the case is resolved. The enforcement action sought a final order permanently banning Elk Funeral Home and Surratt from selling or administering preneed funeral contracts, restitution for consumers who were harmed by the defendants' conduct, as well as civil penalties, punitive damages, and interest on all judgments.

In July 2014, the defendants entered into a consent order with the office to resolve the litigation. Defendants paid to the State \$10,000 to reimburse the Preneed

Regulation Fund. Defendants also agreed to confess judgment in the amount of \$72,151.33 with the funds payable to the Preneed Guarantee Fund. During the reporting period, the Attorney General's office also received \$2,500.00 from defendants, paid toward the balance owing to the State.

As part of the consent order, the defendants also were permanently enjoined from selling preneed funeral service contracts to consumers.

2.

State of West Virginia ex rel. Patrick Morrissey, Attorney General v. Broyles-McGuire Funeral Home, LLC and Joel L. McGuire, Individually and as Owner of Broyles-McGuire Funeral Home

(Civil Action No.: 14-C-34 Circuit Court of Monroe County, West Virginia)

On or about May 9, 2014, the Office of the Attorney General filed suit against Broyles-McGuire Funeral Home and its owner, Joel L. McGuire. The State filed the lawsuit because McGuire had misappropriated funds belonging to more than 12 consumers who paid in advance for funeral arrangements. Ultimately, it was revealed that McGuire had failed to deposit consumers' money (\$36,644.05) into trust accounts, and had not reported the funds and preneed contracts to the Attorney General, as required by law. McGuire also made at least 8 death claims, totaling \$60,512.36, prior to the deaths of any of the preneed contract beneficiaries.

The pending enforcement action seeks a final order permanently prohibiting Broyles-McGuire Funeral Home and McGuire from selling and administering preneed funeral contracts, restitution for aggrieved consumers, as well as civil penalties, punitive damages, and interest on all judgments.

State of West Virginia ex rel. Patrick Morrissey, Attorney General v. Stockert-Sizemore, Inc. d/b/a Stockert-Sizemore Funeral Home and Timothy Sizemore, Individually and as Former Owner of Stockert-Sizemore Funeral Home

(Civil Action No.: 14-C-1953 Circuit Court of Kanawha County, West Virginia)

On or about October 31, 2014, the Office of the Attorney General filed suit against Stockert-Sizemore Funeral Home and its former owner, Timothy S. Sizemore. The State filed the lawsuit because Sizemore had misappropriated funds belonging to 7 consumers who paid in advance for funeral arrangements, totaling \$30,593.08. Ultimately, it was revealed that Sizemore had failed to deposit consumers' money into a trust account or insurance policy, and had not reported the funds and preneed contracts of 5 additional consumers to the Attorney General, as required by law.

The pending enforcement action seeks a final order permanently prohibiting Stockert-Sizemore Funeral Home and Sizemore from selling and administering preneed funeral contracts, restitution for aggrieved consumers, as well as civil penalties, punitive damages, and interest on all judgments.

PRENEED FUNERAL UNIT ASSURANCES OF DISCONTINUANCE

As part of its responsibility to regulate the sale of preneed funeral contracts, the Preneed Funeral Unit conducts audits to ensure that funeral providers are managing their preneed funeral accounts in accordance with state law. When audits reveal violations, funeral providers are asked to sign an Assurance of Discontinuance. The most common violations discovered during these audits are the failure to report preneed

funeral contracts to the Preeed Funeral Unit within 10 days of execution, and the failure to submit a Report of Death Beneficiary form after servicing a preneed funeral contract. During the 2014 reporting period, three preneed funeral providers signed Assurances of Discontinuance.

FUNERAL HOME	LOCATION	CONTRACTS Failure to Register	CONTRACTS Failure to File Death Beneficiary Forms	FILING FEES AND COSTS
Pivont Funeral Services, Inc.	Hinton, WV	28	85	\$2,660.00
Helsley-Johnson Funeral Home, Inc.	Berkeley Springs, WV	1	12	\$2,190.00
Furbee Funeral Homes, Inc.	Middlebourne, WV	3	89	\$1,920.00

VI. OUTSIDE COUNSEL POLICY

On July 16, 2013, the West Virginia Office of Attorney General adopted an Outside Counsel Policy to establish procedures and guidelines for the appointment of outside counsel to represent the State. This policy had a significant impact on the amount of money paid to outside counsel assisting the Office of Attorney General in matters related to Consumer Protection and Antitrust.

While attorney's fees in such cases are approved by the Court, the Outside Counsel Policy mandated that the Attorney General request that fees awarded by the Court be within the limits set by the policy. Under the policy, fees in contingent arrangements are limited as follows:

1. Twenty-five percent of the first \$10 million recovered; plus

2. Twenty percent of any portion of the recovery between \$10 million and \$15 million; plus
3. Fifteen percent of any portion of the recovery between \$15 million and \$20 million; plus
4. Ten percent of any portion of the recovery between \$20 million and \$25 million; plus
5. Five percent of any portion of the recovery exceeding \$25 million.

Additionally, the total recovery for any legal matter is not to exceed \$50 million.

Based on the implementation of this policy, the West Virginia Office of Attorney General was able to save the State of West Virginia \$ 2,806,999.67 in attorney's fees for settlements reached in 2014. (See Exhibit 3.)

VII. CONCLUSION

During the 2014 reporting period, the Consumer Protection and Antitrust Division enjoyed tremendous successes in meeting its mission and commitment to the protection of the public from fraud and misrepresentations. The Division vigilantly pursued education awareness for both the consumers and businesses, and successfully mediated matters to arrive at informal resolutions. The mediation numbers reflect the successes of this Division. When necessary and appropriate, the Division brought suit against entities to enforce the Consumer Credit and Protection Act, and sought restitution for harmed consumers.

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EXHIBIT

1

TOP 10 COMPLAINTS

November 20, 2013 Thru November 19, 2014

<u><i>Type of Complaint</i></u>	<u><i>Complaints Received</i></u>
AUTOS/MOTOR VEHICLES	720
PROMOTIONS	683
MISC./NOT ELSEWHERE CLASSIFIED	595
HOME REPAIR-REMODELING SERVICES	449
CREDIT	446
COMMUNICATION	343
SALES-GENERAL	315
COLLECTION AGENCIES	277
SOLICITATIONS	267
ELECTRONIC EQUIPMENT	210

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EXHIBIT

2

*Total Mediator and Attorney Mediation
Monies and Value
November 20, 2013 - November 19, 2014*

Grand Total Money	\$ 507,163.77
Grand Total Value	\$ 1,017,321.68
Grand Total Debt Cancellation	\$ 223,658.31
Grand Total:	\$ 1,748,143.76

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EXHIBIT

3

2014 Savings from Outside Counsel Policy

Case	Gross Settlement Amount	Attorney Fees Paid	Amount Saved (compared to traditional 1/3 fee)
Morgan Stanley	\$150,000.00	\$55,500.00	\$14,500.00
JP Morgan	\$400,000.00	\$120,000.00	\$13,333.00
Glaxosmithkline	\$22,000,000.00	\$4,666,436.09	\$2,700,000.00
G.E. Money Bonds	\$950,000.00	\$237,500.00	\$79,166.67
Total	\$23,500,000.00	\$5,079,436.09	\$2,806,999.67