

## **2022 COUNTY ATTORNEY ANNUAL REPORT**

This summary of legal services rendered last year to various branches of the County government is once again general in nature principally for reasons of confidentiality.

As General Counsel for Greene County it is my goal to minimize all liabilities associated with operations and administration of County Government while at the same time seeking to maximize all assets and identify recoverable leakage. I strive to reduce costs to taxpayers and to maximize all current and potential assets. I personally represent the County in all civil litigations which are not defended by indemnity carriers; and as to those actions, my office works hand in hand with the Insurer's assigned defense counsel. I personally handle all collection matters for County departments and all resulting litigation; realizing significant revenue without tarnishing the County's reputation and in full compliance with the Federal Fair Debt Collection Practices Act.

It remains my goal, to avoid the uncertainty of litigation wherever and whenever possible. In furtherance of that objective, I work with each and every department researching and training personnel relative to compliance with all controlling rules, regulations and/or laws. I also handle various department personnel related contract development and vendor insurance requirements.

It is my department's mission to interface with all County departments and assist procedurally to insure continuing compliance with all applicable State and Federal mandates; in a continuing effort to reduce any and all claims against the County of Greene. My office maintains an open door policy with all department heads, supervisors and County employees in an effort to address procedures, policies and law in an effort to avoid potential litigation. My office pays close attention and legal review of all Freedom of Information Law (FOIL) requests and responses, close participation with the Greene County Legislature, Greene County Treasurer's Department, Human Resources, Economic Development, Tourism and Planning, Highway, Public Health, Family Planning, Department of Social Services, County Clerk, Mental Health, District Attorney, Human Services, Probation, Weights and Measures and the Sheriff's Department. I am responsible for reviewing all County contracts from all departments and to approve same where appropriate. If the contracts are not approvable as written, I make every effort to interface with the vendors in order to amend and/or modify the contractual language. I

review all contracts, as to form; and with an eye towards content and accuracy.

The above stated efforts have resulted in (a) continuing reduced claims profile; (b) fewer lawsuits; (c) substantial reduction of economic losses; (d) de minimis outside legal fees; (e) zero collections fees; and, (f) lower insurance premiums.

This office strives to reduce the County's exposure to loss and liability whenever and wherever possible. Whether defending or prosecuting lawsuits, the Office of the Greene County Attorney remains dedicated to protecting and/or expanding Greene County's revenues and assets.

The Office of the Greene County Attorney performs a myriad of legal services for Greene County Government, including and without limitation, legal research and provision of legal advice, prosecuting collection actions, negotiating renewable energy PILOT agreements, negotiating the Athens Generating PILOT Agreement since 2019; providing legal advice to Real Property Tax Services, Civil Service compliance, personnel matters, real estate transactions, investigation of harassment/discrimination complaints, investigation of workplace violence incident complaints, review and determination of request for reasonable accommodation under The Americans with Disabilities Act (ADA), review and submission of NYS Unemployment claims, protest New York State Unemployment claims where appropriate and represent the County at Unemployment Insurance Hearings, Greene County Employee Incident Report review, Batavia Kill Watershed Dam reports review and analysis, Greene County Soil and Water Conservation representation, Ethics Board advisory, claims processing, In Rem Tax Foreclosure proceedings, Assistant Outpatient Treatment (AOT) Court proceedings, Freedom Of Information Law (FOIL) Information Officer, Economic Development Corporation Loan closings, if any, loan payoffs, mortgage satisfactions and associated research, UCC-1 lien filings, UCC-3 lien continuations and terminations, DMV lien releases and contract and resolution preparation for various departments. The Office of the Greene County Attorney handles all Subpoenas issued to any and all Greene County Departments and/or personnel and will move, where deemed appropriate, to comply with or quash Subpoenas. This office also reviews, and opposes, where applicable, Poor Persons' applications made to the Supreme Court, Appellate Division and Court of Appeals in the standard course of business. When successful, Greene County disposes of meritless lawsuits.

This office negotiates settlements and remedies related to contractual disputes, in rem tax foreclosure matters. Each and every year since 2013 Greene County receives the sum of

approximately \$55,000.00 from the New York State Department of Taxation and Finance related to an approximate 850 acre parcel of land, owned by New York State which had been removed from the tax rolls. This office enforced the Town and County's right to have said parcel of land placed back on the tax roll, (with arrears), from which it had been inappropriately removed in violation of law and the Memorandum of Agreement with the New York City Department of Environmental Protection. In 2022, the Office of the Greene County Attorney generated payment to Greene County in the sum of \$389,341.63 in Opioid settlement monies; the sum of \$21,825.00 relative to actions brought on behalf of Economic Development; the sum of \$6,750.00 in various sales of surplus real property; negotiation and settlement on claim against in rem tax foreclosures in the amount of \$12,000.00; settlement of in rem litigation brought by the U.S. Bankruptcy Trustee of \$12,500.00, saving the County \$37,500.00; \$50,000.00 from Flint Mine Solar as the first payment for an easement; \$6,000.00 from Prattsville Commons, which will continue each year until 2056, totaling \$210,000.00. The County Attorney's Office successfully defended Greene County Department of Social Services in litigation involving three school districts resulting in a savings to the County of approximately \$1,600,000.00.

These figures do not include the value of income received from providing FOIL and medical record requests which totaled \$1,921.25 in the year 2022.

As General Counsel for the County, I often field questions and draft opinion letters for department heads lending direction at legal crossroads.

The following general legal services rendered to all departments include without limitation:

1. Representation in litigation either as plaintiff or defendant (The Annual Audit Report, updated May 20, 2022, is an Attorney/Client privileged and confidential document, provided to the Legislature under separate cover);
2. Analysis and response to 277 Freedom of Information Law requests, 18 subpoenas, related motions, related court appearances seeking production of County records and testimony in New York State and Federal Courts. My office also responded to and satisfied 137 requests directed to Greene County Mental Health and/or Greene County Public Health;
3. Legal research and legal advice;
4. Supervision of and collaboration with insurance company assigned counsel;
5. Researching and educating departmental staff as to current insurance requirements;

6. Researching and updating insurance requirements;
7. Contracts: preparation, review as to form, content and mathematical accuracy, negotiation and attention to appropriate insurance coverages relative to 242 contractual agreements;
8. Attention to bankruptcy matters protecting the County's interests;
9. President of Greene Tobacco Asset Securitization Corporation which includes preparation of documents, compliance oversight relative to Public Authorities Accountability Act (PAAA) issues, scheduling and attendance at the annual meeting;
10. Legal research and advice to all departments as requested;
11. Review and process all incident/accident reports (70 in 2022);
12. Conduct Workplace Violence Incident Report investigations;
13. Conduct Harassment/Discrimination complaint investigations;
14. Conduct Workplace Violence Prevention Program Hazard Reduction

Team meetings;

15. Attention to requests for reasonable accommodation pursuant to The Americans with Disabilities Act;
16. Review and direct compliance with or draft opposition, where appropriate, to all subpoenas served on Greene County;

- To Batavia Kill Watershed District: Review all Batavia Kill Watershed District bi-annual dam inspections conducted by New York State Department of Environmental Conservation and Natural Resources Conservation Service (NRCS); reports and interface, if necessary, with Batavia Kill Watershed district officials; etc.

- To County Clerk: Review and respond to FOIL requests; legal research, interpretation of Civil Practice Law and Rules (CPLR) and Court Rules; review various documents submitted for filing, upon request; consult as to fee disputes; review litigation and court documents and advise as to indices adjustment; general legal research and advice to County Clerk and Deputy; etc.

- To District Attorney: Consistent collaboration on criminal matters which overlap civil claims against Greene County; attention and assistance to FOIL requests; prosecute Adolescent Offenders removed to Family Court upon motion of District Attorney and Order of the Court; etc. The Office of the Greene County Attorney prosecuted a 17 year old juvenile in a criminal

action which was referred to Family Court by the Office of the District Attorney. The defendant was accused of firing up to five (5) bullets into a residence located on High Street in the Village of Catskill. Prosecution's case was circumstantial, consisting of 47 pieces of physical evidence coming in through 13 witnesses; 11 of which were subpoenaed. The prosecution culminated in a conviction.

- To Economic Development, Tourism & Planning: Review and approve of all contracts, including insurance requirement compliance; draft loan modifications, mortgage satisfactions, and mortgage subordination agreements. Research existing loan files in efforts to accurately and securely file mortgage satisfactions which were never filed by borrowers of the past. Prosecute collections actions; preparation of all legal documents for future Economic Development Corporation loan closings, including Loan Agreements, Security Agreements, Mortgages, Notes and Personal Guaranties; consultation and legal advice to the Director re: all County projects; prepare UCC-1 and UCC-3 filings; etc.

- To Board of Elections: Legal advice; approval of contracts; assist in compilation and production of FOIL materials; etc.

- To Board of Ethics: Advise and counsel the Board of Ethics; conduct and attend Board of Ethics meetings, legal research as necessary; etc.

- To Emergency Services: Review and approve all contracts, as to form; prepare annual EMS paramedics agreements with municipalities; review and respond to FOIL requests; review and respond to subpoenas; etc.

- On Family Court Matters: Weekly appearance of Assistant County Attorney on Juvenile Delinquency (JD) petitions and hearings; as needed; interface and coordinating anticipated diversions and/or prosecutions; prosecute Adolescent Offenders removed to Family Court upon motion of District Attorney and Order of the Court; preparation and attendance at trial(s); etc.

- To Family Planning: General legal services; attention to contract review and opinions; review and satisfy Early Intervention medical requests; general legal counseling; review and comply with judicial subpoenas; advise as to patient(s) rights; etc.

- To Highway Department: Attention to personnel matters; contract review; attention to various claims for property damage; site visit(s) and map review(s); interface with citizens regarding complaints and/or requests; review and respond to FOIL requests; legal research; real

property title research; assist outside counsel in eminent domain proceedings; etc.

- To Human Resources: Attention to any and all harassment/discrimination and workplace violence complaints; review and investigate all proposed harassment/discrimination and workplace violence complaints and generate investigative report(s); legal advice regarding various employee complaints; respond to any and all ADA requests for reasonable accommodations; ADA research; review and defense of unemployment compensation claims; etc. The Office of the County Attorney has unsuccessfully appealed to the New York State Commissioner of Unemployment one benefits claim.

- To Human Services: General legal services; contract review; contract language advice; review lease agreements for senior centers as necessary; review of insurance certificates; investigate workplace violence report filed by department personnel, interface with personnel re: interoffice relations and workplace conditions; etc.

- On Insurance Matters: Research claim submissions; attention to securing appropriate legal representation for Greene County, when indemnified; confirming the assignment of legal representation to all claims; track interposition of responsive documents, Court dates, motion dates, return dates and assist outside indemnity counsel on all claims and lawsuits; legal research; review of all insurance coverage; negotiate claim settlement(s); telephonic conferences with Marshall & Sterling and New York Municipal Insurance Reciprocal (NYMIR) regarding defense and indemnification of current litigation; review all professional subcontractors' liability insurance policies; continuously review and update county insurance requirements; etc.

- To The Legislature: Attend monthly committee and Legislative meetings; attend miscellaneous committee meetings when requested; legal research as requested; research and advice as to Public Officer's Law, Robert's Rules of Order and Open Meetings Law, and Rules of Legislature; settlement approvals and execute agreements re: Multi State Opioid litigation, inform elected officials as to the status of and/or changes in any lawsuits that may affect the public or the County budget and/or bond rating; read and monitor bankruptcy filings re: pharmaceutical litigation; monitor and review documents re: generic drug lawsuit; provide Napoli Skolnick with generic drug disclosure documents; comply with document demands re: generic drug lawsuit; inform elected officials as to the status of PFAA foam lawsuit; review of all contracts signed by Greene County Legislative Chairman; interpret insurance documents; review resolutions; draft resolutions; continuing review of General Municipal Law, Public

Officer's Law, Real Property Tax Law, Local Finance Law, Executive Law and Municipal Home Rule as required on an ongoing basis; attention to lease renewals and real estate option agreements; real estate conveyances; legal research and advice re: employment matters, departmental policies and procedures; document retention; attention to ADA requests for accommodations; investigate discrimination and/or misconduct and/or workplace violence complaints; attention to Greene Tobacco Asset Securitization Corporation issues including Public Authorities Accountability Act (PAAA) compliance; legal research relative to all claims against the County and assessment of risk, including correspondence and communication with insurance companies and the investigation and settlement of minor claims; attention to taxpayers complaints; attention to Notices of Claim for personal injuries; appear at 50-h hearings; prepare 2022 Cost Allocation Summary for Venesky & Company, auditors; prepare annual litigation audit; prepare annual contracts for Greene County with:

1. Community Action of Greene County, Inc.
2. Greene County Historical Society
3. Greene County Libraries Association
4. Greene County Soil & Water Conservation
5. Greene County Federation of Sportsmen Clubs
6. Greene County Agricultural Society
7. Twin County Recovery Services, Inc.

Assist all insurance-appointed attorneys defending and representing Greene County, review and update policy statement and program; review of Greene Tobacco Asset Securitization Corporation bond performance, including scheduling and attendance at annual meeting, electronic filing of required financial reports pursuant to Public Authorities Accountability Act (PAAA); conduct Greene County Workplace Violence Hazard Reduction Team meeting(s); provide legal research as requested or required to Administration and County departments; respond to general correspondence as required; appear and present at insurance indemnification company quarterly claims review; preparation of 2021/2022 Litigation Report/Annual Audit; review and submit unemployment benefit applications and oppose where appropriate; ongoing legal research re: FOIL exceptions, review requests for proposals, bids and quotes for various departments; interface with County Administrator relative to all aspects of proposed or current County projects; research and provide legal opinions to Legislature and County Administrator as

necessary or as requested; etc.

- To Mental Health: Attention to medical records, whether by release, Court Order or subpoena; legal representation of Jason Fredenberg, Director of Community Services, with regard to AOT proceedings (10 in 2022), prepare AOT Petitions, Orders to Show Cause, Affirmations, Affidavits, proposed Orders and correspondences to Court and parties; attend AOT hearings; attention to legal issues regarding production of documents, reports and subpoenas in accordance with Health Insurance Portability and Accountability Act (HIPAA) regulations and 45 CFR §164.512 exceptions; petitions and hearings; legal research and memoranda regarding release of all patient file materials under HIPAA; prepare contracts for independent contractors; respond to Mental Health records requests and subpoenas (137 Mental Health Records requests in 2022) legal research and advice as to third party deposition subpoenas; prepare subpoenaed Greene County Mental Health practitioners (witnesses) for trial; appearances, review and advice on subpoenas; prepare and train all Mental Health providers as to Court testimony when needed.

- To Probation: Prosecute Juvenile Delinquent and Adolescent Offenders; interface with probation officers with Juvenile Delinquent diversions; legal research and advise on numerous legal matters; review department policies at the request of the director for compliance with the law; advise on personnel matters; review all departmental changes; review and respond to FOIL requests.

- To Public Defender's Office: Attention to subpoenas and FOIL requests; conflict advice; discussion(s) with attorneys re: sentencing; etc.; respond to all medical record requests from Treatment Accountability for Safe Communities, (TASC).

- To Public Health Department: The office of the County Attorney continues to review all contracts; review and advise as to proper insurance documentation; miscellaneous legal research; records retention; review and respond to all requests and subpoenas seeking Public Health records; miscellaneous advice as requested; review and respond to FOIL requests; review and respond to Early Intervention requests; etc.

- To Real Property Tax Services: Review and negotiate PILOT agreements with the Director of Real Property Tax Services; review list of delinquent taxes; research and respond to legal issues as necessary, review deeds as to legal sufficiency when requested; etc.



- To Sheriff's Department: Legal advice to Sheriff's Department on a regular and ongoing basis; review and approve as to form of contracts; general legal research; attention to any and all civil matters which may arise; attention to any and all criminal matters with civil implications; handle vehicle insurance claims; handle property damage claims; accept calls from the field 7 days a week, 24 hours of the day, to provide legal advice as to any questions or matters arising from the Sheriff and/or his deputies; research and opine on garage liens and remedy(ies), research and respond to all information requests; oversight of indemnity representation of Sheriff Department; general advice to Sheriff, Undersheriff and supervisory personnel, as requested; review and respond to FOIL requests; etc.

- To Department of Social Services: Meet with Greene County Department of Social Services Commissioner regarding Greene County Social Services' liens and mortgages; contract review and approval; insurance review and approval; review and facilitate subpoenas for County records and or personnel; review and accommodate ADA requests; successfully defended Greene County Department of Social Services in Supreme Court action between Greene County Department of Social Services and three (3) school districts at an approximate savings to the County of \$1,600,000.00.

- To Solid Waste Management: contract review and approval; insurance compliance review; attention to refuse removal agreements with various contractors; review incident reports and claims; assist in the execution of temporary easement(s), etc.

- To The Treasurer's Office: Interface with Director of Taxes with regard to tax liens; serve as Greene Tobacco Asset Securitization Corporation President; review and execute all agreements and audits, attend annual Greene Tobacco Asset Securitization Corporation meetings; review and respond to FOIL request; PILOT payment review; research claims and estate claims; representation in in rem foreclosure proceedings, etc.

- To Soil & Water Conservation District: General legal advice; contract review and approval; etc.

- To Veteran's Service Agency: Contract review and approval; etc.