

The banner features the FDCC logo on the left, which includes the text "DEFENSE LAWYERS. DEFENSE LEADERS." Below the logo is the word "E" followed by a circular emblem containing the letters "FDCC". To the right of the emblem is the word "Newsletter" in a large, bold font. Underneath "Newsletter" is the tagline "News from and about your fellow members and friends." and the date "February 2017" in a smaller font. The background of the banner is dark blue with a faint laurel wreath pattern.

FDCC E Newsletter

News from and about your fellow members and friends.
February 2017

Intellectual Property Section

Cindy Williams is the General Counsel at 1800 Contacts. Cindy joined 1800 in July of 2015 where she is responsible for managing the legal and legislative affairs team which includes legislative work at the state and federal levels as well as legal and regulatory work.

I have the opportunity every day to help transform the contact lens industry by making the purchase of contact lenses more simple and affordable for 41 million Americans that wear contact lenses. My daily work involves a direct focus on advocating for contact lens wearers—both in the legislative space at the state and federal levels as well as the regulatory arena—to ensure that their rights are protected. This includes defending the law passed in Utah in 2015 outlawing “unilateral pricing policies” or “UPP.”

In 2014, nearly all major contact lens manufacturers began to adopt vertical price restraints to prevent retailers from selling lenses below a price set by the manufacturers. UPP eliminated price competition among retailers for the most popular brands of contact lenses. It prohibited retailers from discounting contact lenses below the price manufacturers set, thereby depriving consumers of access to lower cost contact lenses. The goal was express: helping optometrists make sales by removing the incentive for patients to shop around and price compare.

Shortly after its inception, states began to consider legislation to ban the policies. 1-800 CONTACTS was instrumental in passing a law in Utah prohibiting these unfair pricing policies, and the Utah law banning UPP within the state went into effect on May 12, 2015. Three manufacturers (Johnson & Johnson, Alcon, and Bausch & Lomb) filed suit in federal court in Utah, challenging the law on commerce clause grounds and seeking an injunction barring its enforcement. 1-800 CONTACTS filed a motion to intervene, which was granted by the Court. The Utah District Court’s decision to deny the manufacturers’ motion for a preliminary injunction to block the law from taking effect was upheld by the Tenth Circuit Court of Appeals on December 19, 2016. Recently, manufacturers have backed away from UPP. Effective April 13, Johnson & Johnson discontinued their unilateral pricing policy, with Alcon following suit on December 23, 2016. Defending consumer rights, both through the courts and legislation, is one of the most challenging and rewarding parts of working at 1-800 CONTACTS.