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Date: 12/13/2016 4:55:38 AM  
Subject: Trump Names Gen. Kelly To Head DHS, Advocates Worried

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## PUBLIC POLICY

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Tuesday, December 13, 2016

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### TOP NEWS

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#### Trump Names Gen. Kelly To Head DHS, Advocates Worried

President-elect Donald J. Trump on Monday officially nominated Gen. John Kelly to serve as secretary of the U.S. Department of Homeland Security, saying his decades of military service and deep commitment to fighting the terrorism threat inside the nation's borders make him ideal, while immigrants' rights advocates say otherwise.

##### Analysis

#### Trump Labor Nominee Comes With Sharp Anti-Reg Ideology

Fast-food CEO Andrew Puzder, who was nominated recently as President-elect Donald Trump's secretary of labor, has spent several years outlining his views on labor issues, including his opposition to overtime expansion regulations and an increase to the federal minimum wage. Here, Law360 takes a look at some of the positions Puzder has taken in editorials, television commentaries and congressional testimony.

#### After 15 Years In The WTO, China Takes The Gloves Off

China observed its 15th year as a World Trade Organization member by filing complaints against the U.S. and European Union on Monday for their failure to consider Beijing a "market economy," opening a new front in its tense relationship with the world's mightiest economies.

##### Analysis

#### Private Capital-Raising Inched Ahead In '16, But Hurdles Loom

Private companies saw their capital-raising avenues expand in 2016 — aided by the enactment of landmark rules governing equity crowdfunding and the defeat of a legal challenge that threatened to block so-called mini-initial public offerings — but experts say the novel funding methods are only slowly gaining acceptance.

#### EPA Moves To Force Texas Power Plants To Cut Emissions

The U.S. Environmental Protection Agency proposed a new rule Friday aimed at lowering sulfur emissions at 14 Texas power plants in the latest move by the agency to regulate air quality in the Lone Star State through the Clean Air Act.

#### Schock Pleads Not Guilty To Misusing Gov't, Campaign Funds

Former U.S. Rep. Aaron Schock, R-Ill., on Monday pled not guilty to the 24-count indictment federal prosecutors leveled against him last month following

### LAW FIRMS

Arnold & Porter  
Ballard Spahr  
Beck Redden  
Blecher Collins  
Boies Schiller  
Brann & Isaacson  
Covington & Burling  
Craig P. Kenny & Associates  
Cravath Swaine  
Edelson PC  
Flaster/Greenberg  
Gould & Ratner  
Greenberg Gross  
Hogan Lovells  
Jenner & Block  
Johnson & Bell  
Jones Day  
Kabateck Brown  
Kobre & Kim  
Lane & Waterman  
Lewis Brisbois  
Marquis Aurbach  
Marten Law  
Mayer Brown  
McGuireWoods  
Morgan Lewis  
Morrison & Foerster  
Olshan Frome Wolosky  
Reed Smith  
Ropes & Gray  
Rutan & Tucker  
Schnader Harrison  
Silicon Valley Law Group  
Silverstein & Pomerantz

an investigation into the politician's alleged misuse of campaign funds and his congressional allowance to buy cars and decorate his office, among other purchases.

### Supreme Court Declines Colo. Sales Tax Reporting Row

States frustrated by a 1992 U.S. Supreme Court ruling barring them from collecting transaction taxes from remote retailers were dealt a disappointment on Monday when the high court refused to take up two petitions concerning a Colorado law requiring out-of-state sellers to file sales information with the state.

### Ex-Pa. Rep. Fattah Gets 10 Years In Corruption Case

A Pennsylvania federal judge on Monday ordered ex-Rep. Chaka Fattah and a onetime Stradley Ronon Stevens & Young LLP government affairs specialist to spend a combined 12 years in prison following their convictions for participating in a sweeping criminal enterprise that included influence peddling and the misappropriation of federal grant funds.

## BANKING & SECURITIES

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### SEC Small Business Advocate Act Clears Senate

The U.S. Senate on Friday unanimously authorized the creation of a small-business advocate within the U.S. Securities and Exchange Commission, touted by supporters as a key step toward promoting streamlined regulations intended to make it easier for small businesses to raise capital.

## ENERGY & ENVIRONMENTAL

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### NY Regulators Say Nuclear Plant Subsidies Are Sound

New York state utility regulators urged a federal judge Friday to nix a suit challenging the state's plan to subsidize three struggling nuclear power plants as part of its clean energy program, arguing that the subsidies don't usurp Federal Energy Regulatory Commission authority over wholesale electricity markets.

## HEALTH & LIFE SCIENCES

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### Doc In Menendez Case Can't Challenge Drug Rules, Feds Say

A Florida doctor accused of committing Medicare fraud and bribing Sen. Robert Menendez, D-N.J., in an attempt to clear himself should not be allowed to show a jury evidence challenging Medicare's authority to set dosing regulations on the drug Lucentis that he is accused of violating, prosecutors argued Friday.

### Clinics Sue To Block Texas Rule Requiring Fetal Burials

Texas women's clinics on Monday sued to block a state rule requiring fetal tissue be buried or cremated instead of disposed like other medical waste, claiming it infringes patients' rights to seek pregnancy-related medical care without undue interference from government.

## IP & TECHNOLOGY

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### White House Report Urges Better Enforcement Of IP Law

The White House issued a report Monday calling for better enforcement of copyrights online, more thorough searches for counterfeit goods at the border

Skadden

Spiegel & McDiarmid

Sprague & Sprague

Stradley Ronon

Stradling Yocca

Weil Gotshal

Wiley Rein

Wilkinson Walsh

Williams & Connolly

Williams Montgomery

## COMPANIES

AT&T Inc.

Amazon.com Inc.

American Cable Association

Anheuser-Busch Inbev S/NV

CITGO Petroleum Corp.

CKE Restaurants, Inc.

CTIA

Comcast Corporation

Competitive Carriers Associatio

Dynegy Inc.

Entergy Corporation

Exelon Corporation

Financial Industry Regulatory  
Authority Inc.

GlaxoSmithKline

Google Inc.

Kimberly-Clark Corporation

LinkedIn Corp.

Massachusetts Bay Transporta  
Authority

NASDAQ OMX Group Inc.

NBCUniversal Inc.

NRG Energy Inc.

National Association of  
Broadcasters

Newegg Inc.

Overstock.com Inc.

Porsche

SLM Corporation

Sierra Club

Smith & Williamson Holdings Lt

State Farm

T-Mobile USA Inc.

Talen Energy Corp.

Temple University

and more interagency cooperation in the enforcement of intellectual property law.

## TRANSPORTATION & INFRASTRUCTURE

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### DOT Panel Agrees On Proposals For Disabled Air Travelers

The U.S. Department of Transportation said Monday it may soon propose rules addressing bathroom access and in-flight entertainment options aboard commercial flights for passengers with disabilities, just days after proposing potentially easing its longstanding restriction on phone calls during flights.

## EMPLOYMENT

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### Judge Sinks Pa. Judicial Retirement Referendum Challenge

A Pennsylvania federal judge on Friday sunk a challenge to purportedly misleading language on a now-approved state ballot referendum seeking to raise the judicial retirement age to 75, ruling that voters had access to plenty of information needed to make an informed decision.

### NJ Not Obligated To Make Pension Contributions, Panel Says

The New Jersey Appellate Division handed Gov. Chris Christie a victory Monday when it affirmed the dismissal of a lawsuit by public pension trustees fighting his fund cuts, ruling that other courts have correctly ruled that the state isn't contractually obligated to make contributions.

## COMPETITION

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### GSK, Nev. Abused Fed. Drug Discount Program, 9th Circ. Told

A group of Nevada doctors asked the Ninth Circuit on Monday to find GlaxoSmithKline LLC and the Southern Nevada Health District are not exempt from antitrust claims over GSK's sale of discounted vaccines through a federal program, saying the health district sold the shots to businesses instead of low-income patients.

## GOVERNMENT CONTRACTS

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### USDA Contractor Loses \$4M Claim At Appeals Board

A Civilian Board of Contract Appeals panel sided with the U.S. Department of Agriculture Friday in rejecting a breakwater construction company's claims to \$4 million in extra costs, because the contractor should've known Gulf Coast water-depth and other conditions could change.

## INTERNATIONAL TRADE

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### Commerce Investigating Chinese Wood Imports

The U.S. Department of Commerce said Friday that it has opened an investigation into imports of hardwood and decorative plywood from China, after an industry group raised concerns that the products are being illegally subsidized and sold at unfairly low prices in the U.S.

## TAX

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### Supreme Court Snubs Challenge To Minn. Split From Tax Pact

The U.S. Supreme Court once again shunned a challenge to states' ditching a nearly 50-year interstate agreement for calculating corporate franchise

Verizon Communications  
Washington Metropolitan Area  
Transit Authority  
Washington Post Co.  
Wayfair LLC

## GOVERNMENT AGENCIES

Bureau of Citizenship and  
Immigration Services  
Bureau of Land Management  
Congressional Budget Office  
Department of Commerce  
Executive Office of the President  
Federal Bureau of Investigation  
Federal Communications  
Commission  
Federal Energy Regulatory  
Commission  
Fish and Wildlife Service  
Immigration and Customs  
Enforcement  
International Trade Commission  
National Labor Relations Board  
Office of the Federal Register  
Securities and Exchange  
Commission  
Texas Commission on  
Environmental Quality  
Texas Health and Human  
Services Commission  
Transportation Security  
Administration  
U.S. Attorney's Office  
U.S. Civilian Board of Contract  
Appeals  
U.S. Department of Agriculture  
U.S. Department of Energy  
U.S. Department of Homeland  
Security  
U.S. Department of Labor  
U.S. Department of Transportation  
U.S. Department of the Interior  
U.S. Environmental Protection  
Agency  
U.S. Forest Service  
U.S. Senate  
U.S. Supreme Court  
Wage and Hour Division

taxes, refusing Monday to review a hygiene-products maker's bid to make Minnesota stick to the compact's terms.

## TELECOMMUNICATIONS

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### Comcast Lobbies FCC Against Changes To Alert System Rules

Comcast Corp. urged the Federal Communications Commission to take a longer view on changes to the rules for the Emergency Alert System in a letter Friday, arguing against sweeping changes discussed at the agency's December meeting.

### FCC Aims To Clear 84 MHz In New Auction Stage

The Federal Communications Commission announced that the fourth stage of bidding in the incentive auction to convert spectrum from broadcast to mobile broadband use will begin Tuesday with a clearing target of 84 MHz, after a previous round failed to meet a \$42 billion clearing target by a wide margin.

### Big Telecoms Want Flexibility In Real-Time Text Rules

AT&T, Verizon, T-Mobile and other telecommunications giants have pushed the Federal Communications Commission to allow some more give in new real-time texting rules, arguing in a filing Friday for the companies' choosing their own path to provide support to disabled users.

## EXPERT ANALYSIS

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### Trumping Obama's Interior Department

President-elect Donald Trump made clear on the campaign trail that he intends to roll back regulations affecting domestic oil and gas and coal production on public lands. Thomas Perry and Andrew Bell of Marten Law PLLC assess the Trump administration's rollback options and examine four U.S. Department of the Interior initiatives outside the fossil fuel context that may be reconsidered in the near future.

### 3 Tips To Avoid Being On The Outs With In-House Counsel

When trial lawyers fail to recognize the unique challenges faced by in-house counsel, it jeopardizes not only the outcome of the case, but also the opportunities for future representation. These few simple strategies are hardly rocket science, but they are too often neglected, says Matthew Whitley of Beck Redden LLP.

## LEGAL INDUSTRY

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### Covington Sets Cravath Bonuses As Maximum Payout

BigLaw bonus season is continuing with Washington, D.C.-based Covington & Burling LLP announcing a "maximum" bonus scale for associates, which is in line with the scale first set out by Cravath Swaine & Moore LLP.

### Law Firm Hacking To Breed New Kind Of Malpractice Suit

A novel lawsuit unsealed Friday alleging a Chicago firm committed malpractice through shoddy cybersecurity presages more allegations by clients focused on confidential data held by their lawyers, experts say, even as a dearth of hard evidence of firm hacks will make most claims tough to make stick in court.

## Firms Improving Data Security But Can Do Better, Report Says

Law firms and other members of the legal industry have made strides in protecting sensitive information from the prying virtual fingers of hackers and cyber criminals, according to a new report released Monday, but that doesn't mean clients or firms should think their privileged secrets are safe.

## Injured Williams & Connolly Lawyer Sues DC Metro For \$50M

A Williams & Connolly senior associate is suing the Washington Metro Area Transit Authority for \$50 million after being struck in the head by a large falling metal pole at a D.C. metro station that left him unable to work, according to a complaint in D.C. federal court.

## Philly Atty Linked To Anti-Trump Graffiti Won't Face Charges

A Philadelphia assistant city solicitor will not be criminally charged in connection with anti-Donald Trump graffiti spray-painted on the wall of a grocery store, but will be required to perform community service for his actions, a city spokesperson said in a statement Monday.

## Employee/Experts Not Shielded By Attorney-Client Privilege

When a client's product is at issue in court, and a relevant expert witness is not available, an employee may sometimes be tapped to fill this role. This can be a useful strategy, but it comes with a downside: much of the prep work with the now-expert might be discoverable, says Stephen McConnell of Reed Smith LLP.

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