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Subject: Attys Scratch Heads As FDA Punts Generic-Label Rule To 2017

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## PUBLIC POLICY

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Friday, May 20, 2016

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### TOP NEWS

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#### Attys Scratch Heads As FDA Punts Generic-Label Rule To 2017

The U.S. Food and Drug Administration on Thursday said that a new policy allowing generic-drug makers to unilaterally update their warning labels won't be finalized until 2017, adding to prior delays and leaving experts uncertain about the proposal's future.

#### Updated TSCA Reform Bill Appears Headed For Quick Passage

A bipartisan group of U.S. senators on Thursday unveiled new details of a deal that could deliver a Toxic Substances Control Act reform bill to President Barack Obama's desk before Memorial Day, including commitments to act on asbestos controls and chemicals near water.

#### Clean Energy, Greenhouse Gas Rules Top Obama's Agenda

The finalization of rules for wind and solar energy leasing on public lands and waters, as well as an endangerment finding for greenhouse gas emissions from aircraft and updated greenhouse gas emissions standards for trucks highlight the spring semi-annual regulatory agenda unveiled by the Obama administration on Wednesday.

#### US House Takes Up Puerto Rico Restructuring Bill

Three Republican representatives on Wednesday introduced a U.S. Department of the Treasury-backed bill to help Puerto Rico escape its debt crisis under the guidance of an oversight board, following months of prodding by the Obama administration.

#### 2 Obama SEC Nominations Advance In Senate

The Senate Banking Committee on Thursday approved two of President Barack Obama's nominees for vacant seats on the U.S. Securities and Exchange Commission six weeks after delaying its vote in the wake of some Democrats' objections. The panel also gave the nod to three other nominees of the president.

#### Texas Judge In Immigration Row Order Ethics Class For DOJ

A Texas federal judge ripped U.S. Department of Justice attorneys Thursday for being "intentionally deceptive" about deportation deferrals during a lawsuit challenging White House executive actions on immigration and ordered dozens of government lawyers to take an annual ethics class.

#### House Dems Want To Hold Up Summer Recess Over Garland

A group of House Democrats have introduced legislation to bar a summer

### LAW FIRMS

Anderson Bottrell  
Arnold & Porter  
Blank Rome  
Crowell & Moring  
DLA Piper  
Dentons  
Drinker Biddle  
Duane Morris  
Earthjustice  
Gibbons PC  
Graham Curtin  
Greenberg Traurig  
Harness Dickey  
Hogan Lovells  
Holland & Knight  
Jenner & Block  
Kirkland & Ellis  
Lite DePalma  
Locke Lord  
Lowenstein Sandler  
Mayer Brown  
Milberg LLP  
Morris Sullivan  
Munger Tolles  
Nelson Mullins  
Norton Rose Fulbright  
O'Melveny & Myers  
Orrick Herrington  
Pillsbury Winthrop  
Post & Schell  
Reed Smith  
Schnader Harrison  
Shearman & Sterling  
Steptoe & Johnson LLP

recess for Congress until the Senate acts on U.S. Supreme Court nominee Merrick B. Garland, a Hail Mary throw to overcome the GOP stalemate.

## ANALYSIS

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### ITC's Tepid Forecast Unlikely To Accelerate TPP Ratification

The U.S. International Trade Commission's analysis of the Trans-Pacific Partnership paints a relatively modest picture of the agreement's economic benefit, which experts say will do little to expedite the current timeline for a congressional vote on the accord.

### China's Draft M&A Rules To Spur More Private Deals

Chinese regulators have moved to simplify outbound dealmaking, opening the door for even more cross-border M&A as private players see a more viable pathway for acquisitions abroad, experts say.

## BANKING & SECURITIES

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### EU Official Says New Banks Need Simple, Not Lax, Rules

A European Banking Authority official warned Thursday that concerns about regulatory burdens on so-called challenger banks should not always boil down to questions about lowering capital requirements for new institutions, saying a push to simplify rules would have more merit.

## ENERGY & ENVIRONMENTAL

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### Greens Blast Industry Challenge To EPA's Coal Ash Rule

Environmental groups embroiled in the legal tug-of-war over the U.S. Environmental Protection Agency's coal ash rule on Wednesday urged the D. C. Circuit to uphold the parts of the rule under attack from industry groups.

### Senator Seeks To Expand Liability For Non-US Oil Spills

A Republican senator from Alaska on Wednesday introduced a bill that would saddle foreign oil drillers with greater potential liability for cleanup costs stemming from spills that start elsewhere and spread into U.S. waters.

### GOP Climate-Change Skeptics Demand Exxon Probers' Docs

Republican members of the House science committee accused 17 state attorneys general and eight climate organizations Wednesday of colluding since 2012 to take down the panel's research denying climate change by depriving its scientists and organizations of funding.

### Sens. Float Bill To Make EPA Answer For Gold King Spill

Sens. Orrin Hatch, R-Utah, and Cory Gardner, R-Colo., proposed legislation Wednesday that would require the U.S. Environmental Protection Agency to reimburse all communities affected by the Gold King Mine spill, which released millions of gallons of wastewater into the Animas River last summer.

### Enviro Defends Del. River Comm.'s Right To Bar Gas Drilling

A Pennsylvania- and New Jersey-based environmental group Wednesday attacked a recent Pennsylvania federal court suit challenging components of a moratorium on fracking in the Delaware River watershed, saying the Delaware River Basin Commission had clear authority to regulate gas well pads in areas under its jurisdiction.

Thacker Robinson

Thompson Hine

Tompkins McGuire

Venable LLP

White & Case

WilmerHale

Winston & Strawn

## COMPANIES

AT&T Inc.

ATS Corporation

Altman Weil Inc.

American Civil Liberties Union

American Petroleum Institute Inc

American Public Power  
Association

American Thoracic Society

Associated Press

BMW of North America LLC

Bank of America Corporation

Bayer AG

Black Entertainment Television  
LLC

CRST International Inc.

Delaware Riverkeeper Network

Duke Energy Corporation

Duquesne Light Holdings Inc.

Edison Electric Institute Inc.

Facebook

Florida East Coast Industries LL

Florida Power & Light Co.

Generic Pharmaceutical  
Association Inc.

Google Inc.

Hudson City Bancorp Inc.

Mexican American Legal Defens  
and Education Fund

Murray Energy Corp.

NFL Enterprises LLC

National Association of  
Manufacturers

National Rural Electric  
Cooperative Association

Netflix Inc.

New Jersey State Bar Associati

Oracle Corporation

PHH Corporation

## Lung Groups Back Fight To Lower EPA Ozone Standard

The American Thoracic Society and American Lung Association have asked the D.C. Circuit to force the U.S. Environmental Protection Agency to lower its proposed ozone standard to a level they say will be more protective of public health.

## Pa. Commission Nixes PUC's Proposed Solar Generation Cap

A Pennsylvania regulatory review board on Thursday shot down a proposed rule from the state's Public Utility Commission that would have limited so-called customer-generators from installing solar panels capable of generating more than 200 percent of the power they consume.

## HEALTH & LIFE SCIENCES

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### Senate Passes \$140B HUD, VA Bill; Adds \$1.1B Zika Funding

The Senate passed a \$140 billion budget bill for military construction and the Departments of Veterans Affairs, Transportation, and Housing and Urban Development Thursday and also approved more than \$1.1 billion in funding to various agencies fighting the spread of the Zika virus.

### Bill Effectively Banning Abortion Heads To Okla. Governor

The Oklahoma Legislature on Thursday passed a bill declaring it a felony for a physician to perform an abortion, a move that could effectively ban the procedure in the state if passed by the state's Republican Gov. Mary Fallin.

## MEDIA & ENTERTAINMENT

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### EU Floats Tax On Netflix, Others To Fund European Content

The European Commission plans on slapping Netflix, Amazon Prime and other online streaming services with a tax to finance the production of European movies and television shows, according to a draft of proposed regulations made public on Thursday.

## TRANSPORTATION & INFRASTRUCTURE

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### NJ Mayor Creates Port Authority Oversight Team

Suggesting that Newark, New Jersey, has been denied "a seat at the table" on issues related to its port and airport, the city's mayor on Thursday announced a new office to represent city's interests in negotiations with the Port Authority of New York and New Jersey.

### NJ Ride-Hailing Oversight Bill Clears Assembly Committee

A bill intended to give the state of New Jersey greater oversight of ride-hailing businesses like Uber and Lyft and establish industry safety and consumer protection standards was released from an Assembly committee Thursday after lengthy discussion over thorny issues like driver background checks and data collection.

## REAL ESTATE

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### Traffic, Rising Seas Loom Large At Miami Real Estate Summit

If Miami is to some day equal New York and Los Angeles as a cultural and economic center, the community must address its congested roadways and underused and inadequate mass transit systems, as well as the threat of rising sea levels, Miami-Dade County Mayor Carlos Gimenez told real estate

Pennsylvania Bar Association

PhRMA

RLJ Entertainment Inc.

SLM Corporation

Service Employees International Union

Sierra Club

Spokeo Inc.

Stanley Black & Decker Inc.

Starbucks Corporation

The Cato Corporation

Twitter Inc.

U.S. Chamber of Commerce

UBS AG

Zeughauser Group LLC

## GOVERNMENT AGENCIES

Bureau of Indian Affairs

Bureau of Land Management

Bureau of Ocean Energy Management

Centers for Disease Control and Prevention

Commodity Futures Trading Commission

Consumer Financial Protection Bureau

Delaware River Basin Commission

Eastern Shoshone Tribe

European Commission

Executive Office of the President  
Export-Import Bank of the United States

Federal Acquisition Regulatory Council

Federal Bureau of Investigation

Federal Communications Commission

Federal Deposit Insurance Corp

Federal Reserve System

Federal Trade Commission

Food and Drug Administration

Internal Revenue Service

International Trade Commission

National Aeronautics and Space Administration

National Archives and Records Administration

leaders and lawyers Thursday.

## EMPLOYMENT

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### Philly Mayor Looks To Expand Wage Hike For Airport Workers

Philadelphia Mayor Jim Kenney floated a proposal Thursday to extend coverage of the city's living wage ordinance to 1,200 more Philadelphia International Airport concession workers, allowing merchants to raise their prices in exchange for paying employees \$12 an hour, according to the mayor's office.

## PRIVACY & CONSUMER PROTECTION

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### Senators Want To Bar Expansion Of Gov't 'Hacking'

A bipartisan group of senators introduced a bill Thursday to block a rule change that would expand judges' authority to give the FBI access to private computers, saying the move would permit the government to hack into the devices of law-abiding citizens.

### Intercept Targets CFPB, Calling Agency Unconstitutional

The Consumer Financial Protection Bureau violates the separation of powers by vesting all of its authority in its director, making its proceedings unconstitutional and unfair, according to Intercept Corp., a payments processor seeking to bar a \$12 million administrative proceeding against it.

## INTERNATIONAL TRADE

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### EU Rolling Out Trade Transparency Measures

The European Commission on Thursday announced that it will now publish more substantial information about requests for unfair trade practice investigations or reviews of anti-dumping or anti-subsidy measures, in an effort to increase access to information on trade cases.

### Japan Drops Longstanding Ban On Italian Beef

Japan has lifted a 15-year-old ban on beef imported from Italy as the East Asian nation continues to roll back restrictions originally imposed to combat mad cow disease, the European Commission announced Thursday.

### Leaked Doc Shows Proposed EU-Wide Arbitration System

Five European Union members including economic titans Germany and France have proposed creating an EU-wide arbitration system to replace a web of bilateral investment treaties between EU states that the bloc's policymakers view as illegal, a purported negotiation document shows.

## TAX

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### EU Doubles Down On State Aid Restrictions After Tax Probes

The European Commission on Thursday doubled down on restrictions for state aid to certain public investment projects, following a number of investigations that have resulted in U.S. and other multinational companies having to pay millions of dollars in back taxes.

## NATIVE AMERICAN

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### Arapahos Say DOI Must OK Tribal Court Contract

National Institute of Standards and Technology

National Security Agency

Navajo Nation

Northern Arapaho Tribe

Permanent Court of Arbitration

Pipeline and Hazardous Materials Safety Administration

Port Authority of New York & New Jersey

Securities and Exchange Commission

Small Business Administration

Texas Attorney General's Office

U.S. Agency for International Development

U.S. Air Force

U.S. Department of Defense

U.S. Department of Health and Human Services

U.S. Department of Homeland Security

U.S. Department of Justice

U.S. Department of Labor

U.S. Department of the Interior

U.S. Department of the Treasury

U.S. Environmental Protection Agency

U.S. General Services Administration

U.S. House of Representatives

U.S. Mint

U.S. Supreme Court

Unified Patent Court

The Northern Arapaho Tribe on Wednesday hit the U.S. Department of the Interior with a complaint in Montana federal court alleging the government illegally rejected a proposed tribal court contract because the DOI had already issued a similar contract to a tribe that shares the Arapahos' reservation.

## TELECOMMUNICATIONS

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### Lifeline Revamp Needs Grass-Roots Push, FCC Staffer Says

A top adviser to the Federal Communications Commission chairman said Wednesday that the recently agreed-to Lifeline expansion was the "last major piece" needed to modernize the agency's universal telecommunications service measures, urging grass-roots efforts to promote the updated phone subsidy program.

### Sens. Press FCC Head To Allow More Time On Privacy Rules

A pair of Republicans in the Senate's Judiciary and Appropriations committees told Federal Communications Commission Chairman Tom Wheeler on Thursday that he should listen to the majority of the commission and give stakeholders more time to weigh in on proposed privacy rules for broadband providers.

### Lawmakers Rally For And Against FCC's Set-Top Box Plan

The Federal Communications Commission's plan to "unlock" the TV set-top box has provoked a flurry of responses from lawmakers in recent months, with a Republican senator joining the fray Wednesday to warn that it could interrupt licensing agreements while two House lawmakers urged their colleagues to consider its benefits.

## PENNSYLVANIA

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### Star Witness Challenged On Fattah's Link To Loan Scheme

A political consultant and star government witness in the corruption case facing Rep. Chaka Fattah, D-Pa., admitted under cross-examination Thursday to having no records to support his claim that the embattled congressman personally agreed to repay an illegal, \$1 million campaign loan.

## EXPERT ANALYSIS

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### How The House GOP Won Its Challenge Against The ACA

The Obama administration suffered a key Affordable Care Act defeat when a D.C. district court enjoined any further reimbursements to health insurers for the ACA's cost-sharing reduction program, with the court noting that the U.S. House of Representatives' complaint was not about how the administration implemented the law, but how the administration funded the law, says Nicole Elliott at Holland & Knight LLP.

### The Future Of CFPB Small Business Lending Regulation

The Consumer Financial Protection Bureau's entry into small business lending regulation will impose additional compliance costs on financial institutions. Its data collection program will equip the bureau with tools to police small business lending for disparate impact discrimination, redlining and credit discrimination in emerging areas, say Michael Gordon and Franca Harris Gutierrez at Wilmer Cutler Pickering Hale and Dorr LLP.

### Why Cos. Must Pay Attention To Delaware's Blockchain Plan



Delaware corporations, including a majority of the Fortune 500, will soon have the ability to issue shares using the same technology that underlies the virtual currency bitcoin. Blockchain technology can eliminate the complexity, cost and delay prevalent in today's capital markets, but the greatest impediment to its implementation remains a legal one, says Marco Santori, head of the blockchain technology focus team at Pillsbury Winthrop Shaw Pittman LLP.

### [Virtually All Contractors Subject To New Cybersecurity Rule](#)

The rule issued by the U.S. Department of Defense, NASA and General Services Administration this week expressly lists a set of 15 security controls that most contractors will be expected to implement. While it requires concerted focus on compliance, the rule is likely to be taken as more limited and palatable to defense contractors than the DOD's 10-month-old Defense Federal Acquisition Regulation Supplement rule, say attorneys with Arnold & Porter LLP.

### [TTIP Won't Come Easy On Either Side Of The Atlantic](#)

Sustained intercessional efforts by the U.S. and EU will be required to conclude the ambitious, high-standard Transatlantic Trade and Investment Partnership in a way that satisfies both sides' interests and makes a compelling case for free trade, say Paul Davies and Charles De Jager at Crowell & Moring LLP.

## [LEGAL INDUSTRY](#)

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### [Top 5 Reasons Partners Walk Out The Door](#)

In today's fiercely competitive legal market, partners may be tempted to leave their firms and seek out a new gig for a wide variety of reasons, including the perception that they're not being paid enough and a loss of faith in a firm's management. Here, experts give Law360 five reasons top talent may look for the exits.

### [More Pink Slips For Partners Expected As Work Dries Up](#)

Sixty-two percent of law firms report their nonequity partners are not sufficiently busy, and more than a quarter of firms are actively trying to thin the herds, according to a recent survey of managing partners and firm chairs.

### [BigLaw's Struggle To Profit Is Here To Stay, Survey Says](#)

Many of the market forces eating into law firm revenues are here to stay, including greater price competition, more commoditized legal work, corporate legal insourcing and decreased client demand, according to a survey of firm managing partners and chairs.

### [Winston Adopts Gender-Neutral 20-Week Paid Parental Leave](#)

Winston & Strawn LLP has adopted a parental leave program offering both male and female attorneys up to 20 weeks of paid leave in the first year after they become parents, the firm announced Wednesday, becoming the latest BigLaw firm to expand family-friendly policies.

### [BigLaw Sending More Support Staff Jobs To Low-Cost Hubs](#)

Just a week after DLA Piper LLP revealed it will cut 200 U.K. support staff positions with a portion of those heading to its recently opened operations hub in Poland, two more BigLaw giants say they plan to relocate support staff roles to soon-to-be-opened service centers in low-cost locales.

## Law360's Weekly Verdict: Legal Lions & Lambs

DLA Piper and Milberg LLP triumphed this week over a malicious prosecution case brought against them by Facebook, earning them a spot on Law360's list of legal lions, while a former Nelson Mullins Riley & Scarborough LLP partner made her way onto this week's list of lambs after she was sentenced to probation for "unruly" behavior that forced an international flight to be diverted to Philadelphia.

## NJ Class Plaintiffs Facing Tougher Row To Hoe, Experts Say

Third Circuit rulings on class identification standards have made New Jersey federal court a potentially treacherous place for class actions, but the appeals court's recent approval of an NFL concussion settlement offers plaintiffs some leeway in the discovery needed for certification, experts said during a New Jersey State Bar Association panel discussion Thursday.

### JOBS

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