

From: Public Policy Law360 <news-q@law360.com>
To: Adams, ChaneyChaneyAdams@gov.sc.gov
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Subject: Garland Takes Back Seat To SCOTUS Culture Wars At Debate

PUBLIC POLICY

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TOP NEWS

Garland Takes Back Seat To SCOTUS Culture Wars At Debate

Donald Trump and Hillary Clinton paid scant attention to Merrick Garland's long-dormant nomination to the U.S. Supreme Court during the final presidential debate in Las Vegas on Wednesday, instead using an opening segment on the high court to cater to their respective conservative and liberal bases with views on abortion, the Second Amendment and campaign finance.

White House Proposes New Regs To Protect Air Travelers

The Obama administration on Tuesday proposed new regulations requiring airlines to refund handling fees for passengers' delayed baggage and barring any favoritism or bias in how airlines and online ticket agents display fares, part of efforts to bolster competition and improve consumers' air travel experiences.

Regulators Aim For Banks To Prevent Cyberattack Contagion

Federal banking regulators unveiled a proposal Wednesday that would force the largest banks and other critical financial companies to ensure their cybersecurity protocols are strong enough to prevent a hack from spreading to other firms and to recover from an attack in a matter of hours.

Clinton, Trump Spar On Borders, Deportations In 3rd Debate

The Democratic and Republican presidential candidates clashed over immigration policy during Wednesday night's debate, with Hillary Clinton having to explain her leaked comments on "open borders" and Donald Trump dinged for having "choked" on the border wall issue during his trip to Mexico.

Clinton, Trump Poke Holes In Each Other's Trade Records

Wednesday night's final presidential debate saw the candidates attempting to expose one another's shifting positions on international trade issues, with Donald Trump again bashing Hillary Clinton's pivot on an Asia-Pacific trade accord and Clinton rebuking Trump's use of Chinese steel in his development ventures.

T-Mobile To Pay \$48M Over Misleading 'Unlimited' Data Plan

T-Mobile USA Inc. has agreed to pay a \$7.5 million fine, \$35.5 million in consumer benefits and \$5 million to help connect low-income students following a Federal Communications Commission investigation into whether the company sufficiently disclosed constraints on speed and data in its allegedly "unlimited" plans, the FCC said Wednesday.

LAW FIRMS

Baker & McKenzie

Boies Schiller

Carter Ledyard

Consovoy McCarthy

Covington & Burling

Davis & Hamrick LLP

Dechert

Dowd PLLC

Dykema Gossett PLLC

Gibson Dunn

Harris Wiltshire

Haynes and Boone

Holland & Knight

Hunton & Williams

Jones Day

Robinson & Cole

Sheppard Mullin

Skadden

Snell & Wilmer

Squire Patton Boggs

Wilson Elser

Wilson Sonsini

COMPANIES

AT&T Inc.

Accenture plc

Agricultural Retailers Associatic

Air Transport Association of America

Airbnb Inc.

Alcoa Inc.

American Civil Liberties Union

American Farm Bureau Federa

American Immigration Lawyers Association

ANALYSIS

[\\$48M T-Mobile Settlement Sends Solid Transparency Message](#)

The Federal Communications Commission put mobile broadband providers on notice Wednesday that they risk potentially heavy penalties for violating the FCC's transparency rules for falsely advertising "unlimited" data plans, with T-Mobile agreeing to pay \$48 million to settle claims of misleading customers.

[IRS' Disguised Sale Regs Will Limit Options For Partnerships](#)

The Internal Revenue Service's recently issued regulations governing the tax treatment of disguised property sales within partnerships are expected to reduce flexibility for businesses in how they manage debt and close certain tax planning avenues for managing losses and liabilities.

BANKING & SECURITIES

[SEC Approves FINRA's Treasury Securities Reporting Rule](#)

The U.S. Securities and Exchange Commission approved a new rule on Tuesday that would let regulators peer into the market for U.S. Treasury securities for the first time by requiring brokers to report transactions to the Financial Industry Regulatory Authority.

ENERGY & ENVIRONMENTAL

[Energy Coalition Sues NY Over Nuclear Plant Subsidies](#)

A coalition of energy companies and groups filed a suit in federal court Wednesday against New York Public Service Commission officials over the state's plan to subsidize a group of nuclear power plants that have been struggling.

[Suspected Power Agency Misconduct Draws Lawmakers' Eye](#)

The House Oversight and Government Reform Committee on Tuesday asked the Western Area Power Administration to hand over documents for an investigation into alleged mismanagement at the agency, citing recent media, customer and watchdog reports as raising serious concerns about WAPA.

[Rep. Blasts DOI Support For Klamath Dam Removal Project](#)

The Republican head of the House Committee on Natural Resources on Wednesday blasted the Obama administration's support for a proposal to tear down four PacifiCorp-owned dams on the Klamath River in California and Oregon, a plan supported by the states and Native American tribes in the area.

[Ag, Biofuel Groups Blast EPA Aircraft GHG Emissions Rule](#)

A coalition of biofuel and agricultural industry groups is fighting the U.S. Environmental Protection Agency's recent finding that greenhouse gas emissions from aircraft endanger human health and the environment at the D.C. Circuit, claiming the agency wrongly equates crop-derived biomass carbon emissions with emissions from fossil fuels.

IP & TECHNOLOGY

[Gilead Says Ferring Win Should Extend HIV Drug Exclusivity](#)

The U.S. Food and Drug Administration should retroactively grant Gilead

Association of Corporate Couns
Bechtel Corp.

Boise Cascade Holdings

CTIA

Charter Communications Inc.

Comcast Corporation

Competitive Carriers Associatio

Consumer Bankers Association

Council for Global Immigration

Cox Enterprises

Credit Suisse Group AG

DRI Corporation

Dynegy Inc.

Embraer SA

Entergy Corporation

ExactTarget Inc.

Exelon Corporation

Ferring Pharmaceuticals Inc.

Financial Industry Regulatory
Authority Inc.

General Electric Company

Gilead Sciences Inc.

Hewlett Packard Enterprise Co.

Intel Corporation

International Association of
Defense Counsel

International Swaps and
Derivatives Association

Level 3 Communications Inc.

McKesson Corporation

Mylan NV

NJ Transit Corp.

National Association of
Broadcasters

National Association of
Manufacturers

National Employment Law Proj

National Immigration Law Cent

New York Daily News Co.

Nokia Corporation

PHH Corporation

PacifiCorp

Pfizer Inc.

Portfolio Recovery Associates I

Rite Aid Corporation

Royal Dutch Shell PLC

SIFMA

Sciences Inc. five years of exclusivity for its combination HIV drug Stribild after a D.C. federal judge provided a similar win for Ferring Pharmaceuticals, Gilead said in a citizen petition posted Tuesday.

Photog Sues Trump Campaign Over Skittles Refugee Meme

Donald Trump's presidential campaign was hit with a copyright infringement lawsuit Tuesday from the photographer behind an infamous image of a bowl of Skittles that one of the candidate's sons used to illustrate the supposed danger of Syrian refugees in the U.S.

MEDIA & ENTERTAINMENT

Judge Tosses Banned Coach's Anti-Doping Agency Suit

A North Carolina federal judge has slapped down a lawsuit filed by a prominent track and field coach against the U.S. Anti-Doping Agency over a lifetime ban for his role in helping athletes such as Marion Jones obtain performance-enhancing drugs.

TRANSPORTATION & INFRASTRUCTURE

Ex-Christie Spokesman Denies Talk Of GWB Revenge Plot

New Jersey Gov. Chris Christie's former press secretary on Wednesday rebutted claims that he discussed closing lanes to the George Washington Bridge as an act of political revenge over dinner with the architect of the plan.

REAL ESTATE

New East Harlem Zoning Plan Will Allow 35-Story Buildings

The New York City Department of City Planning on Tuesday unveiled a draft rezoning plan for East Harlem that will allow buildings of up to 35 stories in some areas.

Airbnb Floats Concessions To NYC Lawmakers

Lodging service Airbnb Inc. said Wednesday it will soon limit hosts in New York to one rented home and proposed a framework for a new law it hopes would address lawmakers' concerns that its business model is hurting the housing supply.

EMPLOYMENT

Anti-Union Group Dodges Labor Atty's Defamation Suit

An attorney for an Illinois local can't pursue his defamation lawsuit against an anti-labor group in Illinois federal court but can refile in another jurisdiction, a judge ruled Monday in dismissing the case.

COMPETITION

German Sausage Makers Slip €128M In Cartel Fines

Two German sausage makers have avoided €128 million (\$140 million) in cartel fines after restructuring their businesses, taking advantage of what the country's competition authority called Wednesday a loophole in antitrust laws that would be closed under proposed legislation.

PRIVACY & CONSUMER PROTECTION

Salesforce.com Inc.

Sirius XM Radio Inc.

Sprint Nextel Corporation

T-Mobile USA Inc.

TOTAL SA

The Boeing Company

Tokyo Stock Exchange Group I

Twitter Inc.

Tyson Foods Inc.

U.S. Chamber of Commerce

United States Anti-Doping Ager

Verizon Communications

Waste Management, Inc.

GOVERNMENT AGENCIES

Bureau of Indian Affairs

California Environmental
Protection Agency

Chemehuevi Indian Tribe

Commodity Futures Trading
Commission

Consumer Financial Protection
Bureau

Equal Employment Opportunity
Commission

European Commission

Executive Office of the Presiden
Federal Acquisition Regulatory
Council

Federal Bureau of Investigation
Federal Communications
Commission

Federal Deposit Insurance Corp

Federal Energy Regulatory
Commission

Federal Reserve System

Federal Trade Commission

Food and Drug Administration

Government Accountability Offi

Hoopa Valley Tribe

Internal Revenue Service

Judicial Conference of the Unite
States

Karuk Tribe

Klamath Tribes

NAFTA

New York State Department of
Financial Services

Judge Affirms Block Of Obama's Gender Identity Guidance

A Texas federal judge late Tuesday reaffirmed a nationwide injunction issued in August barring the federal guidance that public schoolchildren be allowed to use the bathroom matching their gender identity from taking effect, saying the block wasn't too sweeping.

GOP Rep. Says PHH Ruling Subjects CFPB To Exec Orders

A top House Republican said Wednesday that a recent D.C. Circuit opinion that made the Consumer Financial Protection Bureau an executive agency means the bureau is subject to executive orders mandating the use of cost-benefit analyses and other requirements.

GOVERNMENT CONTRACTS

Feds Want Extension Of Power To Gather Contractor Info

Federal acquisition officials published a request Tuesday to allow government agencies to collect data about contractors' debarment or suspension proceedings largely unchanged, despite criticism that officials had underestimated compliance burdens.

INTERNATIONAL TRADE

CFTC Won't Ditch Plan Allowing It To Peek At Trading Code

The U.S. Commodity Futures Trading Commission is pressing on with its plan to require that automated trading firms give the agency access to their source code under a proposed market-stability rule despite the firms' intellectual property concerns, CFTC Chairman Timothy Massad said Wednesday.

Europe Aims For Middle Ground In China Market Fight

The European Commission said Thursday that it will not unilaterally declare China to be a market economy in the context of new anti-dumping investigations but instead will take a case-by-case approach in determining whether Chinese exporters are truly independent from the government.

Japan HFT Plan Contemplates Oversight Through Registration

Japan is ramping up an effort to regulate high-frequency trading with the hope that forcing such operations to register with the country's financial regulator will prevent glitches that have roiled global markets in recent years, according to the Thursday edition of a Tokyo publication.

TAX

Wyden Asks Treasury, IRS for Info On Panama Papers Cos.

Sen. Ron Wyden, D-Ore., asked the heads of the U.S. Department of the Treasury and the Internal Revenue Service on Wednesday to provide detailed reports on filings by the thousands of companies linked to the Panama Papers leak.

IMMIGRATION

10th Circ. Affirms Halt Of Kansas Voter Registration Law

The Tenth Circuit affirmed a lower court's decision to stop the implementation of a Kansas law requiring voters to provide documentary proof that they are U.S. citizens when registering to vote, finding Wednesday that the law is preempted by federal regulations.

Occupational Safety and Health Administration
Office of Federal Contract Compliance Programs
Office of the Comptroller of the Currency
Ohkay Owingeh
Port Authority of New York & New Jersey
Securities and Exchange Commission
Serious Fraud Office
Shakopee Mdewakanton Sioux
U.S. Department of Defense
U.S. Department of Energy
U.S. Department of Justice
U.S. Department of Labor
U.S. Department of Transportation
U.S. Department of the Interior
U.S. Department of the Treasury
U.S. Environmental Protection Agency
U.S. General Services Administration
U.S. Senate
U.S. Supreme Court
United Nations
Western Area Power Administration
Yurok Tribe

Rule On 'Unfair' Immigration Job Practices Takes Biz Heat

A proposed U.S. Department of Justice regulation on "unfair" employment practices linked to immigration has received blowback from agricultural, trade and even immigration groups, some of which took issue with a possible change to the definition of "discriminate" in recent comments.

NATIVE AMERICAN

BIA Approves Calif. Tribe's Business Leasing Regulations

The Bureau of Indian Affairs has approved the Chemehuevi Indian Tribe of the Chemehuevi Reservation to administer its own land leasing regulations for businesses, allowing the California-based tribe to bypass formal BIA approval of land-lease deals, according to a notice set to appear in the Federal Register on Thursday.

TELECOMMUNICATIONS

FCC Took Autodialer Ban Too Far, DC Circ. Told

Telemarketing industry members urged the D.C. Circuit on Wednesday to throw out the Federal Communications Commission's new order trying to cut down on autodialed calls to consumers, stating in oral arguments that Congress never meant for a blanket prohibition on even potential autodialers, which could ensnare ordinary smartphones.

Fight For Muni Broadband Has Moved To States: FCC Official

A top staffer for Federal Communications Commission Chairman Tom Wheeler said Tuesday that the campaign to foster municipal broadband expansion now resides in the state legislatures after the Sixth Circuit scrapped an agency override of local broadband restrictions.

FCC Told To Narrow Definition Of Sensitive Info In Privacy Plan

An internet and television trade group, joined by representatives from Charter, Cox and Comcast, recently expressed concerns with the Federal Communications Commission's privacy framework for broadband providers, as did Nokia and Level 3 Communications, taking particular issue with what is to be considered "sensitive" information.

Spectrum Bids Fall Short In FCC Incentive Auction

The Federal Communications Commission's spectrum incentive auction has come up short for the second time, the agency said Wednesday, with the latest round failing to clear a \$54.6 billion hurdle for a targeted 114 megahertz of spectrum.

Sprint Says It's Waited Long Enough For Biz Data Reform

Sprint chief Marcelo Claure has pressed the Federal Communications Commission's Democratic majority to move forward with a revised proposal to promote competition and regulate rates in the market for business data services, according to ex parte filings Tuesday arguing the decade-plus wait for reform has cost the company.

PEOPLE

Holland & Knight Adds Ex-Senate Staffer In DC

Holland & Knight LLP revealed Monday it has bolstered its public policy and regulation practice with the addition of a former U.S. Senate staffer in D.C.

who helped draft a sweeping reform to the outdated Toxic Substances Control Act.

OFCCP Director Patricia Shiu To Step Down

U.S. Department of Labor Office of Federal Contract Compliance Programs Director Patricia Shiu will step down in November after seven years leading the agency, a DOL spokesman confirmed Wednesday.

EXPERT ANALYSIS

What To Know About CMS Medicare Physician Payment Reform

At nearly 2,400 pages, the enormity of the Centers for Medicare and Medicaid Services' recently released final rule implementing Medicare physician payment reform reflects the transformative intent of the law. Miranda Franco of Holland & Knight LLP discusses key highlights and takeaways from the new rule.

Calif. High Court Throws Wrench In Cooperative Federalism

The holding and logic of the California Supreme Court's recent decision in *Department of Finance v. Commission on State Mandates* has the potential for significant implications in California and nationwide. Importantly, the logic of the decision could apply to any cooperative federalism-based environmental statute, potentially opening the door to other challenges to state implementation of federal laws, says Samuel Brown of Hunton & Williams LLP.

Preparing For Changes To Federal Appellate Rules

On Dec. 1, 2016, several important amendments to the Federal Rules of Appellate Procedure take effect. The most impactful amendment is the shortening of the permissible length of appellate briefs, which will affect many appeals and will have a particularly significant impact on complex appeals such as patent cases, says Matthew Dowd of Dowd PLLC.

1 Year After Yates Memo: The DOJ's Yates-Lite Approach

There have been no major signs of a Yates memo impact on large multijurisdictional cases. But the U.S. Department of Justice has issued significant settlements in the last year and presumably has the information included in those agreements to initiate individual prosecutions. So why haven't we seen a significant increase? asks Joan Meyer of Baker & McKenzie LLP.

LEGAL INDUSTRY

6 Ways To Be The High Court's Best Friend

An amicus brief can play a unique role in a Supreme Court case, providing a different perspective or valuable context for the justices. But when it's in a pile with dozens of others competing for the court's attention, how can a friend-of-the-court brief stand out from the rest? Here are six ways.

How To Maintain Your Integrity As A GC

Today's corporate general counsel has more clout than ever, but with that power comes great responsibility, according to a panel of GCs. Here is their practical advice for operating with integrity at the legal and ethical helm of a company.

Rainmaker Q&A: Snell & Wilmer's Daniel Mahoney

Even if you are a good communicator and networker, you must have the ability and desire to develop relationships slowly, to not give up the first time the CEO or general counsel says "no thanks," and to persevere in the face of seeming rejection, says Daniel Mahoney, partner at Snell & Wilmer LLP.

Rainmaker Q&A: The Scali Law Firm's Melanie Joo

Becoming familiar with the business practices, culture and problems of a potential or existing client may not yield an immediate result, but constitute significant steps towards achieving the role of where you become the first phone call in an emergency, says Melanie Joo, partner at The Scali Law Firm.

JOBS

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