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Subject: 3 Employer Takeaways From The Defend Trade Secrets Act

PUBLIC POLICY

Monday, May 2, 2016

TOP NEWS

3 Employer Takeaways From The Defend Trade Secrets Act

With President Barack Obama on the cusp of signing a bipartisan bill that offers companies greater access to federal court in trade secret cases, attorneys say employers need to prepare for the law's other provisions, including a new requirement that employees be notified of their right to disclose trade secrets as part of government investigations.

Amtrak Cannot Regulate Competitors, DC Circ. Says

The D.C. Circuit on Friday ruled that giving Amtrak the authority to set performance and scheduling standards along the nation's passenger railways violates the constitutional due process rights of freight railroads using the same tracks, overturning a related law.

Treasury Fights Bankers' Challenge To Info-Sharing Law

The U.S. government is fighting a bid by Florida and Texas banking associations to revive their challenge of an Internal Revenue Service rule requiring disclosures of accounts held by foreigners, telling the U.S. Supreme Court the D.C. Circuit correctly ruled the Anti-Injunction Act bars the suit.

Supreme Court Won't Block Texas Voter ID Law For Now

The U.S. Supreme Court on Friday denied a bid by Texas voters to vacate a stay enacted by the Fifth Circuit in October 2014 that kept a controversial voter identification law on the books, giving the circuit court more time to make a ruling in the pending case.

Ex-Solicitor Gen. Olson Urges Senate Ceasefire Over Garland

Prominent U.S. Supreme Court practitioner and former U.S. Solicitor General Ted Olson weighed in Friday on the ongoing Senate battle over the nomination of D.C. Circuit Chief Judge Merrick Garland for the high court, calling for an end to "relentless partisan warfare."

ANALYSIS

Law360's Cheat Sheet On WTO Aircraft Subsidies Fight

As the World Trade Organization prepares to issue its latest decisions in the long-running civil aircraft subsidy battle between the U.S. and the European Union, Law360 looks back at the dispute's history and offers a glimpse of what lies ahead for the largest and most complex case in WTO history.

Banks Between A Rock And A Hard Place On Chat Records

LAW FIRMS

Akin Gump
Alston & Bird
Arnold & Porter
Baker & McKenzie
Baker Botts
Ballard Spahr
Brena Bell
Cadwalader Wickersham
Cleary Gottlieb
Cohen Milstein
DLA Piper
Day Pitney
Dechert
Dentons
Fisher & Phillips
Gerard Fox Law PC
Gibson Dunn
GrayRobinson
Greenberg Glusker
Gunderson Dettmer
Hobbs Straus
Hueston Hennigan
Hunton & Williams
Husch Blackwell
Jackson Lewis
Jones Day
Jones Walker
Kalbian Hagerty
King & Spalding
King Blackwell
Kirkland & Ellis
Latham & Watkins
Lawyers' Committee for Civil Rights

With salty chat messages fueling high-profile market rigging cases and the emergence of new technologies that allow such communications to be erased, a U.S. regulator has told banks to retain their internal chat records, but that may conflict with cybersecurity standards that require the deletion of unnecessary data, experts say.

FCC Spectrum Clearing Target Starts Auction With A Bang

The Federal Communications Commission's experimental incentive auction passed its first test with flying colors Friday on news that the maximum spectrum possible could be on the table, indicating a strong level of broadcaster interest and a solid chance for success as the auction unfolds, experts say.

Pa. Primary Vote Stirs Doubt About Judge Retirement Measure

A nearly split result on an unofficial referendum Tuesday to increase the mandatory retirement age for Pennsylvania judges — a measure that was postponed too close to primary day to fix the ballots — has court watchers wondering whether the initiative will pass when the votes count this fall.

NC Transgender Law Debate Shows Sports Teams' Clout

Sports teams and leagues are feeling the pressure from fans and sponsors to respond to North Carolina's controversial law targeting transgender individuals' access to restrooms, and experts say they wield unique power to force change — if they're willing to use it.

BANKING & SECURITIES

EU Pressures Bail-In Directive Stragglers To Implement Rules

The European Union's top financial services official stressed Friday the need for Belgium, Poland and Slovenia to implement national rules in line with the Bank Recovery and Resolution Directive, a key element of the regional body's progress toward a unified banking sector.

ENERGY & ENVIRONMENTAL

Lawmakers Blast Gold King Mine Spill Reimbursement Plan

Two Colorado legislators slammed the U.S. Environmental Protection Agency on Thursday following media reports that the agency will not fully reimburse La Plata County for expenses stemming from the Gold King Mine spill, which released millions of gallons of wastewater into the Animas River in August.

EPA Says Texas-Okla. Haze Plan Fight Belongs In DC Circ.

The U.S. Environmental Protection Agency told the Fifth Circuit on Friday that its rulemaking over Texas and Oklahoma's regional haze plans had nationwide implications, meaning the D.C. Circuit is the only place Texas and other parties can challenge the rule.

Texas High Court Nixes Houston Air Quality Law

The Texas Supreme Court said Friday that the heart of a Houston air quality law is preempted by the state's Clean Air Act, handing a victory to an industry group including ExxonMobil Corp. and Dow Chemical Co. that had challenged the law.

Children Get A Win In Climate Suit Against Wash. State

A group of children who sued Washington state's Department of Ecology

Littler Mendelson
Marashlian & Donahue
Mayer Brown
McGuireWoods
Milbank Tweed
Native American Rights Fund
Orrick Herrington
Pepper Hamilton
Perkins Coie
Post & Schell
Quarles & Brady
Quinn Emanuel
Reed Smith
Richards Rodriguez
Robins Kaplan
Sedgwick LLP
Sidley Austin
Simpson Thacher
Skadden
Squire Patton Boggs
Strasburger & Price
Sutherland Asbill
Troutman Sanders
Vinson & Elkins
Western Environmental Law
Center
White & Case
Whyte Hirschboeck
Wilkinson Barker

COMPANIES

AAR Corporation
AT&T Inc.
Aetna Inc.
Allstate Corporation
Ally Financial Inc.
Alyeska Pipeline Service Co.
American Bar Association
Association of American Railroads
Astellas Pharma Inc.
BP p.l.c.
Bank of America Corporation
Baxter International Inc.
Bloomberg
CSX Corporation
CTIA
Canadian Solar Inc.

secured a win in state court on Friday when a judge ordered the agency to develop an emissions reduction rule by the end of the year, the environmental group supporting the youths said in a statement.

[\\$11M Award In Power Row Violates Public Policy, Court Told](#)

Nigeria told the D.C. Circuit on Friday that a district court wrongly confirmed an \$11.2 million award issued to an Enron subsidiary following a dispute over a power purchase agreement, saying the award was based on a contract that was at the heart of Enron's fraud and corruption scandal.

HEALTH & LIFE SCIENCES

[FDA Greenlights Quest Diagnostics' Zika Test](#)

Quest Diagnostics on Thursday said it had been granted emergency U.S. Food and Drug Administration approval for a test that one of its subsidiaries developed to diagnose the Zika virus, adding that the test should be available for physicians to use in the coming days.

[FDA To Mull Mandatory Opioid Education For Prescribers](#)

The U.S. Food and Drug Administration will soon consider whether to make opioid education for prescribers mandatory — it's currently voluntary — amid other possible modifications to the agency's plan for evaluating and mitigating the risks associated with prescribing opioid painkillers.

[Merck Defeats NJ Town's Bid To Check Land Development](#)

Merck Sharp & Dohme Corp. defeated a New Jersey town's attempt to scale back development when a state court judge ruled Thursday that Branchburg, where the pharmaceutical giant owns a research farm, ran afoul of regional growth plans when it reduced its lots-per-acre allowance.

TRANSPORTATION & INFRASTRUCTURE

[STB Tweaks Proposed Rule For Railroad Performance Reports](#)

The Surface Transportation Board revised a proposed rule Friday requiring that the nation's railroad giants submit weekly performance metrics reports, an effort to force carriers to be more transparent about loading and service issues that have contributed to backups and delays.

[House Forms Bipartisan Caucus To Target Car Hacking Threat](#)

Four U.S. House lawmakers on Thursday launched a bipartisan caucus dedicated to tackling safety considerations and security concerns tied to the rise of connected and self-driving vehicles, which have been pegged as being particularly susceptible to hackers.

[Gibson Dunn Blasts Document Demand In Bridgegate Case](#)

The New Jersey governor's office and its counsel Gibson Dunn on Thursday struck back against subpoena requests from the former officials charged for the September 2013 closure of George Washington Bridge access lanes, saying that the document discovery requests went "shamelessly beyond" the court's authorization.

INSURANCE

[Fla. Gov, CFO End Impasse, Appoint New Insurance Chief](#)

Florida Gov. Rick Scott and CFO Jeff Atwater finally ended their standoff over

[Charlotte Hornets](#)

[Chicago Blackhawks](#)

[Citigroup Inc.](#)

[Codexis, Inc.](#)

[ConocoPhillips](#)

[Consumer Reports](#)

[Diamond Offshore Drilling Inc.](#)

[Dow Chemical Co.](#)

[ESPN Inc.](#)

[Electronic Frontier Foundation](#)

[Emerson Electric Co.](#)

[Entegris, Inc.](#)

[Ernst & Young](#)

[FCA US LLC](#)

[Facebook](#)

[Financial Industry Regulatory Authority Inc.](#)

[Florida Bankers Association Inc.](#)

[General Motors](#)

[Genzyme Corporation](#)

[Gilead Sciences Inc.](#)

[Google Inc.](#)

[GulfMark Offshore, Inc.](#)

[Hertz Global Holdings Inc.](#)

[Hewlett Packard Co.](#)

[Humana Inc.](#)

[Luminant Generation Co. LLC](#)

[MTV Networks Co.](#)

[Markel Corporation](#)

[McKinsey & Company](#)

[Merck & Co Inc.](#)

[Meta Financial Group, Inc.](#)

[Metro-Goldwyn-Mayer Studios I](#)

[Microsoft Corporation](#)

[NASDAQ OMX Group Inc.](#)

[NFL Enterprises LLC](#)

[National Association of Broadcasters](#)

[National Association of Consumer Advocates](#)

[National Basketball Association](#)

[National Collegiate Athletic Association](#)

[National Congress of American Indians](#)

[National Consumer Law Center](#)

[National Federation of](#)

a new insurance commissioner and selected deputy commissioner David Altmaier for the job in a deal that will keep the outgoing commissioner in an advisory role for 60 days.

EMPLOYMENT

[Calls To Revoke Hastert's Pension Blocked By State Law](#)

An Illinois legislator called for former House Speaker Dennis Hastert to be stripped of the pension he earned while he was a member of the state's General Assembly on Thursday, but it's unlikely it will be allowed under state law.

[No Need To Rethink Tipping-Pool Rule, DOL Tells 9th Circ.](#)

The U.S. Department of Labor on Thursday said the Ninth Circuit was right to uphold an agency rule barring employers from using tip pools to boost kitchen worker wages, arguing that the decision does not conflict with previous court rulings or labor laws.

COMPETITION

[Blagojevich Tells Justices To Take His Case After Resentencing](#)

Former Illinois Gov. Rod Blagojevich asked the U.S. Supreme Court to reconsider whether to hear his appeal of a corruption conviction and 14-year prison sentence, saying that once his resentencing is complete this summer, the question of how extortion is proved in court will be ripe.

[Attys Urge China To Limit Unfair Competition Law](#)

China's State Council should rethink part of a draft law on competition that would bar unfair trading if a company's actions take advantage "of its comparative advantage position," two sections of the American Bar Association said in a 44-page letter released on Friday, saying that it could limit negotiations that the bodies say stimulate competition.

GOVERNMENT CONTRACTS

[Missile Defense Agency Missed Testing Goals, GAO Says](#)

The Missile Defense Agency fell short of hitting its ballistic missile defense testing objectives last year and has yet to take recommended steps that could reduce the frequency of testing delays, according to a U.S. Government Accountability Office report.

INTERNATIONAL TRADE

[USTR Finalizes New AGOA Petition Process](#)

The U.S. Trade Representative's office has finalized a rule establishing a new petition process to review the eligibility of countries for preferential tariff treatment under the African Growth and Opportunity Act, according to a notice in the Federal Register Friday.

TAX

[Alaska's Top Court Gives City Win In Pipeline Tax Challenge](#)

The Alaskan city of Valdez won a victory over the Alaska Department of Revenue in the state's top court on Friday with a ruling that gives municipalities a leg up in their frequent legal battles over the value of the

[Independent Business](#)

[National Hockey League](#)

[National Railroad Passenger Corporation](#)

[National Restaurant Association](#)

[Netflix Inc.](#)

[New England Patriots](#)

[New York Times Co.](#)

[New York University](#)

[Newegg Inc.](#)

[Nike Inc.](#)

[Overstock.com Inc.](#)

[PPL Corporation](#)

[Pfizer Inc.](#)

[PricewaterhouseCoopers](#)

[Quest Diagnostics Incorporated](#)

[Raytheon Company](#)

[Retail Properties of America Inc.](#)

[Shaw Industries Group Inc.](#)

[Sierra Club](#)

[Sunovion Pharmaceuticals Inc.](#)

[Systemax Inc.](#)

[Tenet Healthcare Corporation](#)

[Texas Bankers Association](#)

[The Boeing Company](#)

[The Cato Corporation](#)

[The Hershey Company](#)

[Time Warner Cable](#)

[Tredegar Corporation](#)

[U.S. Chamber of Commerce](#)

[UMB Financial Corporation](#)

[United Continental Holdings Inc.](#)

[Verizon Communications](#)

[Wal-Mart Stores Inc.](#)

[Walgreen Co.](#)

[Xcel Energy Inc](#)

GOVERNMENT AGENCIES

[Bureau of Indian Affairs](#)

[Centers for Disease Control and Prevention](#)

[Consumer Financial Protection Bureau](#)

[European Commission](#)

[Executive Office of the President](#)

[Federal Bureau of Investigation](#)

[Federal Communications](#)

state's 800-mile crude oil pipeline system.

South Dakota Sues Retailers To Enforce Internet Sales Tax Law

South Dakota on Thursday filed a lawsuit in one of its state trial courts against Internet retailers such as Wayfair Inc., Overstock.com Inc. and Newegg Inc. to enforce a law enacted last month to impose sales tax collection requirements on out-of-state companies who do significant business in the state.

BANKRUPTCY

NJ Casino Group Urges Action On Atlantic City Bailout

The Casino Association of New Jersey renewed its push to save Atlantic City's struggling gaming industry and overall finances, urging lawmakers Friday to enact a legislative package, in one of two competing forms, that calls for a state takeover and casino tax deferral plan.

NATIVE AMERICAN

Feds Say Arapaho-Shoshone Row Is An Intertribal Dispute

The federal government on Thursday urged a Montana district court to nix the Northern Arapaho tribe's suit alleging that the Bureau of Indian Affairs wrongly gave the Eastern Shoshone tribe its blessing to take control of programs regulating joint tribal land, saying that the dispute is an intertribal matter.

Law Profs Back NY Tribe's High Court Petition In Land Row

Two Native American organizations and a group of law professors asked the U.S. Supreme Court on Thursday to take up a petition from the Shinnecock Indian Nation in a dispute over tribal land claims, saying a lower court's ruling against the tribe is antithetical to good governance of Indian Country.

TELECOMMUNICATIONS

Google Says FCC Vacant Channel Rule Has No Downside

Google Inc. has pressed the Federal Communications Commission to approve a proposal to set aside TV station white space for wireless purposes, saying Thursday that even the National Association of Broadcasters conceded the rule would have minimal consequences.

Bill Would Ban Forced Arbitration For Telecom Customers

Amid growing backlash against forced arbitration in consumer contract disputes, a group of senators led by Richard Blumenthal and Al Franken introduced legislation Thursday to outlaw forced-arbitration clauses in contracts for telecommunications services.

FLORIDA

Fla. Rep.'s Redistricting Suit Draws Calls for Sanctions

The League of Women Voters and other intervenors who successfully contested Florida U.S. Rep. Corrine Brown's lawsuit challenging the recent reconfiguration of her district asked a federal court Thursday to sanction her and her counsel, saying it was unlikely she could prove that the redistricting discriminated against black voters.

PENNSYLVANIA

Commission

Federal Railroad Administration

Federal Trade Commission

Food and Drug Administration

Government Accountability Office

Immigration and Customs
Enforcement

Internal Revenue Service

International Chamber of
Commerce

Missile Defense Agency

National Aeronautics and Space
Administration

National Highway Traffic Safety
Administration

National Institutes of Health

Navajo Nation

Northern Arapaho Tribe

Office of the Comptroller of the
Currency

Port Authority of New York & Ne
Jersey

Securities and Exchange
Commission

Shinnecock Indian Nation

Southern Ute Indian Tribe

Stockbridge-Munsee Community

Surface Transportation Board

U.S. Department of Defense

U.S. Department of Homeland
Security

U.S. Department of Justice

U.S. Department of Labor

U.S. Department of Transportati

U.S. Department of the Treasury

U.S. Environmental Protection
Agency

U.S. House of Representatives

U.S. Senate

U.S. Supreme Court

Ute Mountain Ute Tribe

Former Rendell Chief Of Staff To Plead To Wire Fraud

The former chief of staff to Pennsylvania Gov. Ed Rendell intends to plead guilty after being charged with pocketing funds from an undercover business that were supposed to be passed on to state legislators in a federal investigation, according to documents filed in federal court Friday.

EXPERT ANALYSIS

Obama Immigration Case: Interpreting The Oral Arguments

While the U.S. Supreme Court has indicated there is some hope for a final resolution over the Obama administration's immigration action, in reality, the chances of a decision one way or another on all of the issues presented is unlikely, and we will likely have a new president and different Congress when we get the final word on the validity of the policy at issue, says Sujata Ajmera at Strasburger & Price LLP.

Public Trust Doctrine Suit Could Clear Procedural Hurdles

An Oregon magistrate judge's findings and recommendation in *Kelsey Cascade Rose Juliana v. U.S.* has the potential to allow this controversial climate change suit to overcome jurisdictional challenges. If the judge's recommendations are eventually adopted, the case could have a major impact on the trajectory of climate litigation going forward, say Lauren Sidner and George Wilkinson at Vinson & Elkins LLP.

State Tax Fallout From Federal Related-Party Debt Plan

Recently proposed regulations that would create sweeping changes to the federal income tax treatment of related-party debt could also have far-reaching effects for state income tax purposes, particularly on the deductibility of intercompany interest expenses in states that do not adopt consolidated returns or similar rules, say Jeffrey Friedman and Madison Barnett of Sutherland Asbill & Brennan LLP.

OPINION: Engaging The Media May Help Your Client

While I am confident that the decisions in *Windsor* and *Obergefell* were made on the basis of the dictates of the Constitution, I am also confident that the communications efforts undertaken gave the justices additional comfort to make the right call, and ensured that these decisions were not treated as a *Roe v. Wade* redux, says Liz Mair, former online communications director for the Republican National Committee and president of Mair Strategies.

LEGAL INDUSTRY

3 Ways To Boost Your Firm's Sagging Reputation

Any firm, be it a glossy multinational or a hyper-focused boutique, is likely to face a reputational slump at some point, but there's no reason to let that slump become permanent. Here are three ways a firm can manage a lagging reputation in an ever-changing legal landscape.

Squire Misses Mark In Response To Reddit Gender Flap

While it may have been a typical response for Squire Patton Boggs LLP to go on the defensive after a former associate took to Reddit to say she had suffered gender discrimination, experts say there could have been a better way to handle such a situation and that the firm may have missed an opportunity to tell its side of the story.

The Top In-House Hires Of April

The embattled GM continues to transform its legal team by appointing a leader for its ethics and compliance program, and Aetna hires a new general counsel as its merger with Humana hangs in the balance. Here are the top in-house moves you should know about.

Husch Blackwell Boosts Atty Count To 700 With Firm Merger

Kansas City-based Husch Blackwell LLP is merging with Wisconsin business and litigation law firm Whyte Hirschboeck Dudek SC to create a 700-attorney firm with offices in 19 cities, the firms announced Friday.

Sedgwick Partner Can't Dodge Suit Over Roadside Brawl

A Sedgwick LLP partner must face defamation and other claims lodged by a neighbor following a roadside fight the attorney captured on his cellphone, a California appeals court has held, saying the anti-SLAPP statute doesn't extend to disputes between private persons.

GC Cheat Sheet: The Hottest Corporate News Of The Week

The IRS unleashes a \$10,000-a-day penalty on advisers who don't flag tax shelter transactions, Congress makes trade secret theft a matter of federal law and the Federal Circuit ensures that the Eastern District of Texas' status as a patent litigation hot spot lives to see another day. Those stories top the news you may have missed last week.

In Case You Missed It: Hottest Firms And Stories On Law360

For those who missed out, here's a look back at the law firms, stories and expert analyses that generated the most buzz on Law360 last week.

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