

From: Public Policy Law360 <news-q@law360.com>
To: Adams, ChaneyChaneyAdams@gov.sc.gov
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Subject: Obama Vetoes Terror-Suits Bill, Backers Say Override Coming

PUBLIC POLICY

Monday, September 26, 2016

TOP NEWS

Obama Vetoes Terror-Suits Bill, Backers Say Override Coming

President Barack Obama on Friday vetoed a bill to allow victims of terrorist attacks on U.S. soil to sue foreign governments over the attacks, which was proposed by lawmakers citing Saudi Arabia's possible connection with the 9/11 attacks, saying the law would undermine principles of sovereign immunity.

Fed Proposal Would Limit Banks' Commodity Business

The Federal Reserve Board wants the public's opinion on a proposed rule governing requirements and limitations on the physical commodity activities of financial holding companies, one that aims to reduce the various legal, reputational and financial risks these activities pose to such companies, the board said Friday.

DOJ Antitrust Head Says More Int'l Collaborations To Come

The U.S. Department of Justice has worked with foreign enforcers on some of the most high-profile antitrust cases in recent memory, and will likely increase collaboration with international counterparts in the future, Renata Hesse, acting assistant attorney general of the DOJ's Antitrust Division, said Friday.

Dems Want Wells Fargo To Halt Arbitral Clause Enforcement

Democratic senators said Friday that mandatory arbitration clauses on Wells Fargo & Co. customer accounts prevented consumers from suing to stop the creation of unauthorized accounts, and asked the bank to stop enforcing the clauses as a show of good faith after the bank's \$185 million settlement over those actions.

States, Industry Urge 10th Circ. To Uphold Frack Rule Ban

Four states, the U.S. Chamber of Commerce, and several other oil and gas industry groups on Friday told the Tenth Circuit it should not disturb a lower court ruling setting aside a federal rule for hydraulic fracturing on federal and Native American lands.

Insurers, Providers Trade Harsh Words On ACA Steering

Federal regulators are hearing wildly divergent perspectives on improper steering of patients toward and away from Affordable Care Act plans, as insurers allege kickback-style financial assistance and health care providers allege discriminatory practices aimed at low-income Americans, newly released letters show.

LAW FIRMS

Addleshaw Goddard
Akerman
Alston & Bird
Axinn Veltrop
Bartlit Beck
Belin McCormick
Berwin Leighton
Bick Law LLP
Bilzin Sumberg
Bond Dickinson
Chamberlain Hrdlicka
Cleary Gottlieb
Cooper & Kirk
Covington & Burling
Davis Wright Tremaine
Dickinson Wright
Epstein Becker Green
Foley Hoag
Fox Rothschild
Gibson Dunn
Gowling WLG
GrayRobinson
Griffith Bates
Hangley Aronchick
Hogan Lovells
Holland & Knight
Hueston Hennigan
Jackson Lewis
Jones Day
K&L Gates
Kanji & Katzen
Kellogg Huber
King & Spalding
Kirkland & Ellis

Trump Adds 10 More Potential High Court Nominees

Donald Trump's campaign on Friday plans to release 10 more names of contenders for a Supreme Court nomination, should he become the next U.S. president, several media outlets have reported.

ANALYSIS

A Closer Look At Clinton's Labor Positions As Election Nears

Over the course of this election cycle, Hillary Clinton has made clear her positions on labor and employment issues, which, coupled with a long track record in Washington, D.C., gives experts confidence in predicting what labor policy would look like under her administration. Here is a quick rundown of the Democratic candidate's positions on major labor and employment issues.

Presidential Candidates' Tax Plans May Cause Fiscal Crisis

The two leading presidential candidates have proposed a number of tax policy changes to grow the economy, but experts worry that growth could be minimal and that their failure to address the country's increasing debt could ultimately spiral into a global fiscal crisis.

BANKING & SECURITIES

DC Circ. Urged To Rethink SEC In-House Constitutionality

An investment adviser claiming the U.S. Securities and Exchange Commission's in-house judges require presidential appointment asked the D. C. Circuit on Friday to reconsider its decision rejecting his petition for review, saying the appellate court has clearly misinterpreted the Appointments Clause of the U.S. Constitution.

Top Fed Official To Discuss Evolution Of Bank Stress Tests

A top Federal Reserve official on Monday is expected to provide an update on how the central bank's stress-testing process for the largest banks will evolve amid a push by the industry and legislators to ease up on smaller financial institutions and even questions about the tests' legality.

ENERGY & ENVIRONMENTAL

Calif. Energy Regulator Blasted For Conflicts, Spending

The California state auditor issued a scathing report Thursday criticizing the state's energy regulator for awarding utility contracts in instances where impartiality on the part of its commissioners was a concern and took the agency to task for being a careless shopper when spending its own money.

Civil Rights Watchdog Blasts EPA Over Environmental Justice

The U.S. Commission on Civil Rights said Friday the U.S. Environmental Protection Agency has failed to carry out effectively its environmental justice objectives, leaving poor, minority communities that are surrounded by industrial and waste facilities at greater risk of health problems and without administrative recourse.

Trump Trumpets Rollback Of Energy Development Regulations

Republican presidential nominee Donald Trump on Thursday doubled down on his full-throated support of fossil fuel development and use, telling a Pennsylvania shale conference that if elected, he would remove federal regulatory barriers to increased coal, oil and gas production and fast-track

Kline & Specter
Latham & Watkins
Lewis Roca
Lieff Cabraser
Littler Mendelson
Mayer Brown
McDermott Will
Morgan Lewis
Morrison & Foerster
Norton Rose Fulbright
Ogletree Deakins
Parker Hudson
Paul Hastings
Pillsbury Winthrop
Proskauer Rose
Quinn Emanuel
Schlossberg LLC
Shearman & Sterling
Sherrard & Roe
Sidley Austin
Simmons & Simmons
Skadden
Squire Patton Boggs
Stroock & Stroock
Thompson & Knight
Venable LLP
White & Case
Wiley Rein
Williams & Connolly
Womble Carlyle

COMPANIES

AT&T Inc.
AbbVie Inc.
America's Health Insurance Pla
American Beverage Associatio
American Cable Association
American Civil Liberties Union
American Hospital Association
American Medical Association I
Amgen Inc.
Analysis Group Inc.
Baker Hughes Inc.
Bipartisan Policy Center
Cabela's Incorporated
Celltrion Inc.

energy infrastructure projects.

HEALTH & LIFE SCIENCES

EEOC Says Hospital Denied Religious Vaccine Exemptions

An Erie hospital affiliated with the Allegheny Health Network was sued by the U.S. Equal Employment Opportunity Commission in Pennsylvania federal court Friday, over allegedly firing six employees after it denied their request for a religious exemption from the flu vaccine.

FDA Approves Amgen's Humira Biosimilar

The U.S. Food and Drug Administration on Friday approved Amgen Inc.'s Amjevita, a biosimilar of AbbVie Inc.'s immunosuppressant Humira — the world's best-selling drug — for which the two companies are already caught up in patent infringement litigation.

TRANSPORTATION & INFRASTRUCTURE

GWB Scandal Figure Says 'Rule' Meant Only Christie Mattered

The mastermind behind the George Washington Bridge lane closures testified Friday at the trial of two former public officials that the three of them banded together on a mission to advance the agenda of New Jersey Gov. Chris Christie through the influence of the Port Authority of New York and New Jersey.

Two Upstate NY Airports Getting Renovations Worth \$120M

The state of New York will pay for the bulk of more than \$120 million worth of upgrades at two upstate airports through an initiative aimed at modernizing airports across the state, Gov. Andrew Cuomo said this week.

Boston Taxi Drivers Sue Mass. Officials Over Uber, Lyft Regs

Boston and other Massachusetts cities are unconstitutionally saddling taxicab drivers with burdensome and costly regulations, while the state allows ride-hailing companies such as Uber and Lyft to freely operate with less onerous oversight, according to a federal lawsuit filed Friday.

REAL ESTATE

Berkeley Fights Builder Bid To Knock Down Demolition Laws

The city of Berkeley asked a California federal judge Friday to toss a developer's claim that a demolition fee requirement aimed at offsetting the loss of rent-controlled housing unconstitutionally restricts property rights by ballooning redevelopment costs, arguing the developer lacks standing because the city council hasn't yet set the fee amount.

COMPETITION

Unfair Prices Not Antitrust Issue, FTC Commissioner Says

Though inflated prices can indicate there is a constraint on the market, they are not by themselves anti-competitive, and it is troubling that some countries are cracking down on companies whose sole infraction seems to be excessive royalty charges, Federal Trade Commission's Maureen Ohlhausen said late Thursday.

GOVERNMENT CONTRACTS

Citigroup Inc.

Computer & Communications
Industry Association

Deutsche Bank AG

Dot Foods Inc.

Facebook

Federalist Society

Fitbit Inc.

Fresenius Medical Care North
America

Goldman Sachs Group Inc.

HBR Consulting LLC

Halliburton Company

Highmark Inc.

International Bar Association

Internet Corporation for Assign
Names and Numbers

JPMorgan Chase & Co.

Jimmy John's Franchise LLC

LinkedIn Corp.

Los Angeles Clippers

Lyft Inc.

Morgan Stanley

National Association of
Manufacturers

National Retail Federation Inc.

Natural Resources Defense
Council

New York Daily News Co.

Newegg Inc.

News Corporation

PG&E Corporation

Pacific Legal Foundation

Pfizer Inc.

PhRMA

RPM International Inc.

Rambus, Inc.

Sierra Club

Southern California Edison

The American Law Institute

The Utility Reform Network

Turner Broadcasting System In

Twitter Inc.

U.S. Chamber of Commerce

Uber Technologies Inc.

Verizon Communications

Wal-Mart Stores Inc.

Reps. Question NPS Response To Sex Harassment Claims

Federal lawmakers questioned National Park Service officials during a hearing on Thursday about what the agency is doing in response to numerous allegations of sexual harassment and hostile workplaces in several national parks.

TAX

Justices Asked To Nix Washington's Retroactive Tax Law

An Illinois food-reseller accused the Washington legislature of "pulling the rug" out from under it by retroactively applying statutory amendments stripping the company of its tax-exempt status, telling the U.S. Supreme Court the move was an unconstitutional violation of due process.

Philly Says Soda Tax Suit Unresolvable Before Levy's Start

The city of Philadelphia said Thursday it had no problem with the state Supreme Court determining the legitimacy of its new sweetened beverages tax, but it pushed back against tax opponents' request that the court resolve the matter before the start of 2017 when the levy is scheduled to take effect.

IMMIGRATION

DHS Can Hold Fast Removal Cases Without Judge: 10th Circ.

The Tenth Circuit on Thursday ruled that U.S. Department of Homeland Security officers can conduct expedited removal proceedings even if an immigration judge isn't present, denying an appeal from a man who pled guilty to a drug charge and was deported to Mexico.

Moot Claims No Reason To Deny Class Cert., 3rd Circ. Says

A three-judge panel of the Third Circuit tossed two "thoughtful and thorough" opinions from the district court in New Jersey, saying that after the claims of the named plaintiffs in a potential habeas class action involving unauthorized immigrants were mooted, the court was wrong to rule on the merits of the claims and then dismiss the class certification motion as unnecessary.

People From Ebola-Hit Nations To Lose Protected Status In US

Temporary protected status for nationals of Guinea, Liberia and Sierra Leone will end in eight months, according to a Thursday notice from U.S. Citizenship and Immigration Services, with the agency noting the countries are now free of Ebola.

NATIVE AMERICAN

Wash. Asks Judge To Affirm Taxation In Tulalip Village

The state of Washington and Snohomish County urged a federal judge Thursday to uphold their assessment of taxes on commercial transactions made in a Tulalip Tribes' municipality that don't involve tribe members, arguing the Tulalip have failed to show the taxes impose a direct burden on them or violate tribal sovereignty.

Potential Hawaiian Gov't Gets Path To Relationship With Feds

The Native Hawaiian community will have the ability to establish a government-to-government relationship with the federal government under a finalized rule that was unveiled by the U.S. Department of the Interior on Friday.

TELECOMMUNICATIONS

Wells Fargo & Co.

Yahoo! Inc.

GOVERNMENT AGENCIES

Army Corps of Engineers

Bureau of Citizenship and
Immigration Services

Bureau of Land Management

California Environmental
Protection Agency

California Public Utilities
Commission

Centers for Medicare & Medical
Services

Consumer Financial Protection
Bureau

Equal Employment Opportunity
Commission

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

Federal Bureau of Investigation
Federal Communications
Commission

Federal Deposit Insurance Corp.
Federal Reserve System

Federal Trade Commission

Financial Stability Oversight
Council

Florida House of Representatives
Food and Drug Administration

Health Resources and Services
Administration

Immigration and Customs
Enforcement

Internal Revenue Service

Lawrence Livermore National
Laboratory

National Institute of Standards &
Technology

National Park Service

National Telecommunications and
Information Administration

New York Attorney General's
Office

New York State Department of
Transportation

Office of the Comptroller of the
Currency

Cable Group Bashes 'Tax' In FCC's Special Access Rules

A trade group for small and medium cable companies pushed back on the Federal Communications Commission's plan for new rules for so-called special access services, saying in a Thursday letter that the currently planned rules would amount to a "tax" on smaller providers.

AT&T Challenges New Nashville Utility Pole Ordinance

AT&T Inc. challenged in Tennessee federal court Thursday a newly passed Nashville utility pole ordinance that purportedly runs up against federal authority in granting third parties the unilateral ability to move or rearrange communications equipment owned by the likes of AT&T.

PEOPLE

Former Encana Exec Joins Squire Patton Boggs

Squire Patton Boggs LLP announced that it has nabbed an energy and environmental policy specialist from Encana Oil & Gas USA Inc., where he previously worked as its U.S. government and regulatory affairs director, and that he will join the firm in its Denver and Washington, D.C., offices.

Q&A

Rainmaker Q&A: Bilzin Sumberg's Albert Dotson

If you plan to practice law as a career, you need to view it as a long game because the stronger your base and the stronger your network, the more you will be seen as the go-to person in business, says Albert Dotson Jr., leader of the land development and government relations practice group at Bilzin Sumberg Baena Price & Axelrod LLP.

Rainmaker Q&A: Hogan Lovells' Alice Valder Curran

I have built much of my success on a relatively straightforward concept: What would my clients be interested in hearing about and how can I relay that information in a way that would be most useful? If you accept that challenge, you elevate your relationship from outside counsel to business partner, and clients know the difference, says Alice Valder Curran, global head of the government regulatory practice at Hogan Lovells.

EXPERT ANALYSIS

Clinton Vs. Trump On IP Law

At the presidential debate Monday night, we will hear about the distinct policy differences between Democratic nominee Hillary Clinton and Republican nominee Donald Trump in such areas as immigration, national defense, crime and taxation. But this election also will set the tone for the future of intellectual property law, says Jack Hicks of Womble Carlyle Sandridge & Rice LLP.

In Congress: Ticktock

With five days to go before a government shutdown, the parties are not that far apart, but those differences have proven difficult to resolve, say Richard Hertling and Kaitlyn McClure of Covington & Burling LLP.

Triclosan: Proposition 65's Next BPA?

A new rule from the U.S. Food and Drug Administration bans the sale of over-

Port Authority of New York & New Jersey

Securities and Exchange Commission

Social Security Administration

Tulalip Tribes of Washington

U.S. Army

U.S. Census Bureau

U.S. Commission on Civil Rights

U.S. Customs and Border Protection

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. House of Representatives

U.S. Marine Corps

U.S. Patent and Trademark Office

U.S. Senate

U.S. Supreme Court

United Nations

the-counter antibacterial soaps containing certain chemicals, including triclosan. With this recent federal ban, and the growing evidence that triclosan may be harmful to human health, it could end up on the list of chemicals subject to California's Proposition 65 warning requirements, says Gabriel Padilla of Bick Law LLP.

What Employers Should Know About New Ill. Noncompete Law

Illinois' recently enacted Freedom to Work Act prohibits nongovernmental employers from entering into noncompete agreements with low-wage employees. The new law is part of a greater focus by state and federal governments on ensuring the mobility of low-wage workers and preventing potential abuse of noncompete agreements, say Jim Witz and Abiman Rajadurai at Littler Mendelson PC.

LEGAL INDUSTRY

BigLaw Firms Shift Gears To New Leadership

Stroock & Stroock & Lavan LLP on Tuesday became the seventh large law firm in under a month to announce a leadership swap in what some say may be a shift toward a new generation of law firm leaders. Here are the recently announced changes in BigLaw leadership.

Shearman & Sterling Shakes Things Up With Nonequity Role

Shearman & Sterling LLP attorneys have learned that the New York-based law firm is planning to overhaul its existing management structure, creating a nonequity partner role for the first time and consolidating certain practice groups, according to an internal memo made public on Friday.

Justice Kennedy Signals A More Globally Minded High Court

Associate Justice Anthony Kennedy doesn't pay attention to critics who think the Supreme Court should disregard the jurisprudence of foreign countries when deciding cases, suggesting Friday that the increasing "convergence" of international law is a positive thing for the nation's top bench.

Judge Rips Kirkland, Facebook For Sending Junior Attorney

A Brooklyn federal judge reportedly came down hard on a Kirkland & Ellis LLP associate in a pre-motion conference on Thursday, taking the young lawyer's firm to task for sending him instead of a partner to defend Facebook Inc. against claims it facilitated international terrorism.

Another UK Firm Freezes Pay Following Brexit Vote

Yet another U.K. law firm has decided to freeze lawyer pay while sorting out the economic ripple effects of the country's so-called Brexit vote.

3 Indicted In November Murder Attempt On Texas Judge

The U.S. Department of Justice announced Friday that it has obtained indictments against three people it believes collaborated on the attempted capital murder last year of a Texas state court judge.

GC Cheat Sheet: The Hottest Corporate News Of The Week

Yahoo faces the immediate litigation fallout of a potentially historic data breach, one chief legal officer wants to fight patent trolls via crowdsourcing and the Second Circuit delivers a landmark decision on comity. Those stories top the corporate legal 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.

Pro Bono Firm of 2016: Foley Hoag

Toppling age-old discriminatory practices has become something of a routine for attorneys at Foley Hoag LLP, which in the past year shut down the government's bid to take checks from seniors in same-sex marriages, worked to open all military positions to women and helped immigrant students gain access to a Massachusetts college scholarship, landing it among Law360's Pro Bono Firms of the Year.

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