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Subject: Garland Sets Record For Longest Wait For High Court Pick

PUBLIC POLICY

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Thursday, July 21, 2016

TOP NEWS

Garland Sets Record For Longest Wait For High Court Pick

Judge Merrick Garland made history Wednesday — and not the good kind — by setting a new record for Senate inaction on a U.S. Supreme Court nominee, and it looks like he's just getting started.

5 States Clearing The Smoke On Pot Ethics Rules

With new state marijuana laws and regulations proliferating, trying to keep up with it all might leave you feeling ... light-headed. But lawyers can look to a handful of ethical directions related to the quasi-legal business. Here are five jurisdictions and their divergent takes on the rules on lawyers and marijuana.

Texas Voter ID Law Violates Voting Rights Act: 5th Circ.

Texas' law requiring voters to present certain identification at the polls has a discriminatory effect and violates the federal Voting Rights Act, the full Fifth Circuit wrote in a fractured opinion Wednesday, ordering the district court to come up with a solution to the problem before November's presidential election.

Campaign Bombast Souring TPP Landscape, Ex-USTR Says

The 2016 presidential campaign has seen an amplified outcry against free trade agreements and globalization that has severely hampered the Obama administration's effort to pass the Trans-Pacific Partnership before the year is out, former U.S. Trade Representative Charlene Barshefsky told Law360.

Senate Dems Push CFPB To Tighten Payday Loan Regulations

Senate Democrats on Wednesday urged the Consumer Financial Protection Bureau to lengthen the waiting period required between taking out payday loans and to tighten some exemptions granted to lenders when it releases a final version of its regulations for the industry.

New FCA Chief Denies Plans To Pull Back On Enforcement

The new head of the U.K.'s Financial Conduct Authority on Wednesday hit back at suggestions that he will be a less aggressive enforcer than his predecessors, saying that the watchdog's work tackling market abuse is key for the "cleanliness" of the industry.

LAW FIRMS

Adduci Mastriani & Schaumberg
Akerman
Arent Fox
Arnold & Porter
Baker Botts
BakerHostetler
Ballard Spahr
Bancroft PLLC
Barnes & Thornburg
Beveridge & Diamond
Cassidy Levy
Chamberlain Hrdlicka
Covington & Burling
Curtis Mallet-Prevost
Dechert
Drinker Biddle
Freeborn & Peters
Griffith Bates
Harris Moure
Herbert Smith Freehills
Holland & Hart
Hunton & Williams
Jacobson Holman
Kellogg Huber
Kirkland & Ellis
Lane & Waterman
LeClairRyan
Leland Parachini
Marashlian & Donahue
McDermott Will

Grand Jury In Schock Case Dismissed Without Public Charges

The Illinois grand jury investigating former U.S. Rep. Aaron Schock following media reports he misspent campaign and taxpayer funds on trips and luxuries was recently dismissed without the announcement of an indictment, but that doesn't mean the scrutiny of the onetime Republican rising star is over.

ANALYSIS

Yates Memo Driving Wedge Between Companies And Workers

Ten months after the U.S. Department of Justice released the so-called Yates Memo calling on prosecutors to pursue individual bad actors, experts say the new policy has employees and their employers at odds as both feel like they've been thrown under the bus.

3 Trump Campaign Promises Keeping BigLaw On Edge

A fractured GOP this week named Donald Trump its presidential nominee after a tumultuous primary season that leaves legal experts in some of Trump's most talked-about fields — international trade, immigration and health care — skeptical of how many of his campaign positions are legal, politically possible or even practical solutions.

Trump's Telecom Views Still Murky, Causing Industry Heartburn

A Hillary Clinton White House would likely mean more of the same for telecom policy, but experts say billionaire mogul Donald Trump's unorthodox candidacy — and a lack of specifics on the issues — has created real uncertainty about how he might approach key industry concerns.

DOT Oil Train Rule Sparks Security, Compliance Concerns

Recently proposed U.S. Department of Transportation regulations meant to improve spill-response readiness for trains carrying highly flammable cargo like crude oil carve out stringent new reporting requirements that experts say could force railroads to disclose sensitive details, exposing them to security risks and ramping up their compliance burden.

BANKING & SECURITIES

UK's FCA Called On To Certify RegTech Providers

The U.K.'s Financial Conduct Authority has been asked by the country's financial technology players to build an official certification program for regulatory technology to help boost financial firms' confidence in the sector, the watchdog announced Wednesday.

UK Gov't Told To Use Brexit Chance For Challenger Banks

A senior British lawmaker on Wednesday urged the government to look into the opportunities presented by the U.K.'s exit from the European Union and departure from EU laws to create domestic banking rules that are less onerous on so-called 'challenger banks.'

ENERGY & ENVIRONMENTAL

Rising Temps To Cost \$2T Globally In Lost Productivity

Climate change may cost countries across the globe more than \$2 trillion by 2030 as employees slow or stop their work in response to extreme heat, according to United Nations research unveiled Tuesday at an event in Kuala Lumpur.

McGuireWoods

Morgan Lewis

Norton Rose Fulbright

O'Melveny & Myers

Orrick Herrington

Reed Smith

Richards Rodriguez

Ropes & Gray

Schnader Harrison

Sheppard Mullin

Sherman & Howard

Sive Paget

Stoel Rives

Sutherland Asbill

Thompson Hine

Vedder Price

Westerman Hattori

White and Williams

Wiley Rein

WilmerHale

COMPANIES

AAR Corporation

AT&T Inc.

America Fujikura Ltd.

American Bar Association

American Federation of Labor and
Congress of Industrial
Organizations

Arch Coal Inc.

Association of American Railroads

Bank of England

Bouygues

CenturyLink Inc.

Cincinnati Bell Inc.

Consolidated Communications
Holdings, Inc.

Economists Incorporated

Equinox Fund Management LLC

FairPoint Communications Inc.

Frontier Communications
Corporation

Google Inc.

Lateral Link Group

Lawyers' Committee for Civil
Rights Under Law

London Stock Exchange Group

EU Unveils 2030 Nation-By-Nation Greenhouse Gas Goals

The European Commission on Wednesday laid out binding greenhouse gas emission reduction targets for European Union members between 2021 and 2030, including for the U.K., which is poised to leave the bloc following the country's Brexit vote.

Arch's DC Circ. Loss Shows Need To Document Project Costs

The D.C. Circuit's ruling backing the U.S. Environmental Protection Agency's revocation of an Arch Coal mining unit's Clean Water Act permit shows developers that if they want to get a similar EPA decision overturned by arguing the agency failed to consider costs, they must document expenses incurred through reliance on their permits as early as possible, experts say.

EPA Extends Comment Period On Clean Energy Incentives

The U.S. Environmental Protection Agency is giving the public more time to weigh in on a proposal unveiled last month to help states and tribes meet the stalled Clean Power Plan's carbon dioxide reduction goals through early investments in renewable energy.

IP & TECHNOLOGY

GAO Says Time Pressure At USPTO Leading To Poor Patents

The majority of patent examiners at the U.S. Patent and Trademark Office don't feel they have enough time to thoroughly examine applications, which may result in low-quality patents that have fueled a spike in infringement litigation, the U.S. Government Accountability Office said Wednesday.

USPTO Examiners Struggle With Prior Art Searches, GAO Says

It is often difficult for examiners at the U.S. Patent and Trademark Office to identify relevant prior art about patent applications, and the office can do more to ensure examiners can conduct thorough prior art searches, the U.S. Government Accountability Office said Wednesday.

TRANSPORTATION & INFRASTRUCTURE

DOT Launches New Transpo Infrastructure Financing Bureau

The U.S. Department of Transportation on Wednesday rolled out a new transportation infrastructure financing initiative called the Build America Bureau that will streamline credit and grant opportunities for highway improvement projects, part of efforts to get more projects in the pipeline.

EMPLOYMENT

Top GOP Sens. Seek To Block EEOC Wellness Program Rules

Two leading Republican U.S. Senate Labor Committee leaders have introduced resolutions to block what they called an "attack" on workplace wellness programs, saying the final rules issued by the Equal Employment Opportunity Commission in May are inconsistent with current law and bipartisan congressional intent.

GOVERNMENT CONTRACTS

House Panel Prods DOD For Info On Intel Base, Clearances

The House Oversight Committee on Tuesday asked Defense Secretary

PLC

Microsoft Corporation

National Association of Broadcasters

National Cable & Telecommunications Association

New York City Bar Association

Olam International Ltd.

San Francisco Bar Association

Securus Technologies Inc.

Statoil ASA

Telmate LLC

Twitter Inc.

U.S. Chamber of Commerce

United States Telecom Association

Verizon Communications

Whirlpool Corporation

Zeughauser Group LLC

GOVERNMENT AGENCIES

Army Corps of Engineers

Cabazon Band of Mission Indian

California Transportation Agency

Consumer Financial Protection Bureau

Department of Commerce

Equal Employment Opportunity Commission

European Commission

Federal Bureau of Investigation

Federal Communications Commission

Federal Railroad Administration

Government Accountability Office

Internal Revenue Service

National Indian Gaming Commission

Office of Federal Contract Compliance Programs

Pipeline and Hazardous Material Safety Administration

Securities and Exchange Commission

U.S. Army

U.S. Attorney's Office

U.S. Customs and Border Protection

Ashton Carter for documents related to a contentious siting decision for a \$317 million intelligence facility and on federal and contractor employees denied security clearances, possibly related to ongoing sparring over Hillary Clinton's use of personal email for official business.

INTERNATIONAL TRADE

WTO Opens 2016 Probe Of Chinese Economy

The World Trade Organization began its 2016 review of Chinese trade practices Wednesday, releasing a report saying China is continuing to loosen some economic controls as it adjusts for a future of slower growth.

Chamber Hops Aboard US-UK Trade Deal Bandwagon

The U.S. Chamber of Commerce said Tuesday it supports negotiating a bilateral trade agreement with the United Kingdom, while emphasizing the group's continued commitment to the proposed Transatlantic Trade and Investment Partnership with the European Union.

Commerce Finds LG, Samsung Dumped Chinese Washers In US

The U.S. Commerce Department announced Wednesday it has reached a preliminary conclusion that Samsung and LG have been selling Chinese-manufactured washing machines in the U.S. at unfairly low prices below the cost of production.

TAX

Sen. Wyden Picks Attys To Steer Dems' Tax Reform Agenda

Sen. Ron Wyden, D-Ore., has tapped a renowned university professor and a Senate staff attorney for top positions on the Senate Finance Committee's tax leadership team, the committee said Wednesday in preparation of new tax-reform efforts.

Senators Ask IRS To Issue Guidance On R&D Tax Credit

A trio of senators on Tuesday asked the Internal Revenue Service and the U.S. Department of the Treasury to "use common sense" in administering new provisions of a law that expands access to a research and development tax credit to startups and small businesses.

Report Blasts Utilities For Tax-Dodging While Fighting CPP

U.S. utilities pay the lowest federal taxes of any business sector, even as they fight the Clean Power Plan and other climate change regulations targeting the power sector, according to a report published by a progressive think tank on Tuesday.

NATIVE AMERICAN

Indian Gaming Revenue Neared \$30B In 2015: NIGC

The National Indian Gaming Commission on Tuesday reported that revenues generated in 2015 by the Indian gaming industry totaled \$29.9 billion, the largest tribal revenue gain in 10 years.

VA Floats Rule To Help Tribes Support Native Veterans

The U.S. Department of Veterans Affairs proposed a rule Wednesday intended to give Native American veterans better access to benefits by allowing tribal organizations to be recognized by the federal government in the

U.S. Department of Defense
U.S. Department of Justice
U.S. Department of Transportation
U.S. Department of Veterans Affairs
U.S. Department of the Treasury
U.S. Environmental Protection Agency
U.S. Patent and Trademark Office
U.S. Senate
U.S. Supreme Court
United Nations

same way state entities are.

TELECOMMUNICATIONS

FCC's Ownership Rules Are Still Out Of Date, Broadcasters Say

The National Association of Broadcasters has continued aggressive lobbying against the Federal Communications Commission's plan to leave intact several media ownership restrictions that many believe are outdated, telling the FCC that it's time to nix them.

FCC Asks DC Circ. To Put Inmate Call Rate Challenge On Hold

The Federal Communications Commission asked the D.C. Circuit on Wednesday to hold on to a row over its mandated rates for inmate calls, as the agency could lift the rate caps that states and call services companies have challenged.

CenturyLink, AT&T Say FCC Must Ax Special Access Analysis

The Federal Communications Commission is apparently seeking "shortcuts" to reach a desired outcome for its proposed regulatory framework for the business data services market, CenturyLink, AT&T and others said Tuesday, urging the commission to drop a data analysis they said is clearly flawed.

Google Fiber Pushes FCC To Ease Utility Pole Access Policies

Representatives for Google Fiber have told the Federal Communications Commission that policies that allow easier third-party access to utility poles will streamline the deployment of competitive wireline networks.

PEOPLE

Chamberlain Adds Ex-Schnader Partner To Grow Philly Office

A former Schnader Harrison Segal & Lewis LLP partner and onetime Philadelphia mayoral candidate has joined Chamberlain Hrdlicka White Williams & Aughtry's Philadelphia office to grow its regional presence, bringing with him experience handling contract disputes, securities, antitrust and regulatory matters, the firm announced Wednesday.

SEC Names New Associate Regional Director In Denver

The U.S. Securities and Exchange Commission on Wednesday said that it has named a new associate regional director for enforcement in its Denver office who is a veteran attorney with more than 15 years of experience with the agency.

EXPERT ANALYSIS

EEOC Won't Budge On EEO-1 Pay Data Collection

Although revisions to the Equal Employment Opportunity Commission's EEO-1 reporting proposal may alleviate some of the burden placed on employers, the core earnings and hours worked data that the commission proposes to collect remains largely unchanged, say attorneys at Morgan Lewis & Bockius LLP.

A State-By-State Guide To Driverless Car Regulations

In the absence of federal regulation, only nine states and the District of Columbia have passed laws addressing autonomous vehicles, leaving the other states to wrestle with the complexity and uncertainty of interpreting

existing state laws, which presume human drivers, to permit the operation of AVs, say Michael Reynolds and Jason Orr at O'Melveny & Myers LLP.

[Retirement Plans After IRS' Determination Letter Cutback](#)

The days of scheduled, periodic IRS determination letters will soon end. Sponsors of individually designed qualified retirement plans must develop new means for assuring they comply with the qualification requirements, say attorneys with McDermott Will & Emery LLP.

[Trade Secret Forum Shopping: DTSA Vs. Texas UTSA](#)

Although the federal Defend Trade Secrets Act and the Texas Uniform Trade Secrets Act are both modeled after the Uniform Trade Secrets Act, there are several key differences between the two that should be taken into consideration when deciding whether to bring a state or federal claim, or both, says Michael Barbee of Griffith Bates Champion & Harper LLP.

[Canada Attunes Dangerous Goods Transportation To US Rules](#)

Canada's new reporting requirements for shippers of hazardous goods are meant to bring Canada in line with U.S. reporting practices, but there remain some notable distinctions between the two countries' regulations, say attorneys at Norton Rose Fulbright Canada LLP.

LEGAL INDUSTRY

[Lateral Movement Slows At Nation's Largest Law Firms](#)

Lateral partner movement among the 200 largest law firms in the U.S. was put on ice during the second quarter of 2016, as the months grew warmer and uncertainty dampened law firm leaders' confidence in the legal industry.

[DC Firm Appeals Ruling On Equity Stake Of Former Partner](#)

Washington, D.C., intellectual property boutique Jacobson Holman PLLC on Wednesday filed the opening brief in an appeal of January decision saying that it shortchanged a departed equity partner and a holding saying that a forfeiture provision in its partnership agreement was unenforceable.

[Judge Dawson Remembered For Tax Court History Lessons](#)

While Judge Howard A. Dawson Jr. holds the record for the U.S. Tax Court's longest-serving judge, it was the many law clerks, colleagues and practitioners who worked with him prior to his death on Friday who truly had the honor of benefiting from his tales of the court's rich and evolving history.

[Global 20: Orrick Herrington & Sutcliffe](#)

Orrick Herrington & Sutcliffe LLP continues to expand its substantial international presence in the finance, technology, energy and infrastructure sectors, with 14 of its 25 offices on foreign soil and recent work in Africa advising the world's largest energy project underway, landing the firm on Law360's Global 20 list.

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