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**Subject:** Trump's Immigration Ban Sends Cos. Scrambling

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## PUBLIC POLICY

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Thursday, February 2, 2017

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### TOP NEWS

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#### Analysis

#### **Trump's Immigration Ban Sends Cos. Scrambling**

President Donald Trump's sweeping executive order blocking people from certain predominantly Muslim countries from entering the U.S. left companies scrambling to figure out which employees may be affected, immigration experts say, and may lead to disruptions for both businesses and students trying to study in America.

#### **Sessions AG Nomination Advances In Senate**

After numerous delays, the Senate Judiciary Committee sent the attorney general nomination of Sen. Jeff Sessions, R-Ala., to the full Senate on Wednesday, as fights over President Donald Trump's Cabinet appointments and immigration order ramp up in Congress.

#### **Veterans Affairs Nominee Promises Care Won't Be Privatized**

Veterans Affairs Secretary nominee David Shulkin promised lawmakers Wednesday he would not seek to privatize the department but also asked for congressional help to allow the agency to move forward with needed changes.

#### Analysis

#### **IRS Update On Large-Business Audits Too Vague, Critics Say**

Tax practitioners who were eagerly awaiting news on how the IRS would change its approach to auditing large corporations with assets of more than \$10 million were disappointed Tuesday, when the agency released an update that is being criticized as vague and lacking in substantive guidance.

#### Analysis

#### **A Look At How Congress Could Revamp Patent-Eligibility**

Several major intellectual property groups have called for new legislation to clarify what is and is not patent-eligible amid confusion over recent U.S. Supreme Court rulings. Here, attorneys discuss how Congress could frame the change and how it could impact patent law.

#### Analysis

#### **Trump Immigration Ban Causing Headaches For Airlines**

President Donald Trump's executive order temporarily barring citizens from seven predominantly Muslim countries from entering the U.S. caught airlines off guard, leaving them grappling with compliance questions and wondering if they may face suits from travelers who feel their rights have been violated.

### LAW FIRMS

Alston & Bird  
Arent Fox  
Arnold & Porter Kaye Scholer  
BakerHostetler  
Balch & Bingham  
Ballard Spahr  
Barnes & Thornburg  
Bell Nunnally  
Cahill Gordon  
Conner & Winters  
Cooper & Kirk  
Cozen O'Connor  
DLA Piper  
Debevoise & Plimpton  
Dorsey & Whitney  
Drinker Biddle  
Earthjustice  
Epstein Becker Green  
Eversheds LLP  
Fisher Phillips  
Foley & Lardner  
Ford & Harrison  
Fox Rothschild  
Fragomen Del Rey  
Gibson Dunn  
Goodwin  
Gordon Fournaris  
Hogan Lovells  
Holland & Knight  
Honigman Miller  
Jackson Lewis  
Jackson Walker  
Keker & Van Nest  
Kellogg Huber

## Senate Panel Advances Price, Mnuchin Without Dems Present

A key Senate panel on Wednesday voted to move forward the nominations of President Donald Trump's picks to lead the U.S. Department of the Treasury and the Department of Health and Human Services without any Democratic members present.

## Senate Approves Tillerson As Secretary Of State

Former Exxon CEO Rex Tillerson will serve as President Donald Trump's secretary of state after receiving Senate confirmation Wednesday, as battles over the Cabinet continue this week amid Trump's controversial order on immigration.

## SUPREME COURT

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### Analysis

### Gorsuch's Opening Words Speak Volumes About His Style

Never one to pass up the chance to spin a good yarn, U.S. Supreme Court nominee Neil Gorsuch's body of rulings during a decade at the Tenth Circuit casts him as a fervent storyteller. A look at some of his best opening passages reveals a narrative writing style that's light on legalese and heavy on plot, setting and characters.

### Analysis

### The 4 Wittiest Dissents By Gorsuch

During his tenure on the Tenth Circuit, Judge Neil Gorsuch wrote more than 30 playful, witty dissents that both entertain the reader and give clear insight to his legal thinking. Here, Law360 looks at the best of the bunch and what they say about his thoughts on legislating from the bench, prepositional phrases and everything in between.

## Attys React To Judge Gorsuch's Supreme Court Nomination

President Donald Trump nominated Tenth Circuit Judge Neil Gorsuch on Tuesday to become the next associate justice on the U.S. Supreme Court, aiming to fill the vacancy left by Justice Antonin Scalia's death. Here, attorneys tell Law360 what they think about the nomination.

### Analysis

### Senators Flirt With Nuclear Option Over High Court Pick

The Senate fight over Tenth Circuit Judge Neil Gorsuch's nomination to the U.S. Supreme Court could soon "go nuclear," as less than a day after President Donald Trump put Gorsuch up for the court, political discussion has already turned to breaking a likely Democratic filibuster and pushing him through without any bipartisan support.

### Analysis

### Similar On The Law, Gorsuch Differs From Scalia In Style

If confirmed by the Senate, U.S. Supreme Court nominee Neil Gorsuch would bring to the bench a strikingly similar judicial philosophy to that of the late Justice Antonin Scalia, but former clerks and colleagues say the Tenth Circuit judge and Colorado native's congenial temperament couldn't be more different from his fiery predecessor's.

### Analysis

### Labor Agencies Would Face Rough Road Before Gorsuch

If confirmed to fill the open seat on the U.S. Supreme Court, Judge Neil

Kilpatrick Townsend

Kirton & McConkie

Kostelanetz & Fink

Latham & Watkins

Levy Ratner

Lewis Baach

Lewis Brisbois

Little Mendelson

Mayer Brown

McDonnell Boehnen

Miller & Chevalier

Morrison & Foerster

Neal Gerber

Nilan Johnson

Norton Rose Fulbright

Paul Hastings

Polsinelli

Proskauer Rose

Quinn Connor

Seyfarth Shaw

Sheppard Mullin

Sidley Austin

Sirote & Permutt

Stephoe & Johnson LLP

Susman Godfrey

Sutherland Asbill

Venable LLP

Waller Lansden

Weil Gotshal

WilmerHale

Winston & Strawn

Young Conaway

## COMPANIES

AT&T Inc.

Airbnb Inc.

Amazon.com Inc.

America Fujikura Ltd.

America's Health Insurance Pla

American Bar Association

American Civil Liberties Union

American Dental Association

American Federation of Labor &  
Congress of Industrial  
Organizations

American Federation of State,  
County and Municipal Employee

Gorsuch could bring a management-friendly voice to the high court, experts say, pointing to the deep skepticism the jurist has expressed toward aggressive regulatory actions by labor agencies such as the National Labor Relations Board.

#### Analysis

### Gorsuch Likely No Friend To Securities Suits

Plaintiffs firms could be on rough terrain at the U.S. Supreme Court if the Senate confirms Tenth Circuit Judge Neil M. Gorsuch, an exacting jurist who as a private attorney voiced concerns about the growing number of securities class actions and as a judge has taken a narrow view of securities fraud liability.

## BANKING & SECURITIES

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### House Passes Bill Revoking SEC Payment Disclosure Rule

The U.S. House of Representatives passed a measure Wednesday that would disapprove a U.S. Securities and Exchange Commission rule requiring oil and gas extraction companies to disclose their payments to foreign governments, potentially preventing the agency from implementing the regulation.

### SEC Will Reconsider Conflict Minerals Disclosure Rule

The U.S. Securities and Exchange Commission is rethinking a rule that companies publicly disclose whether products contain minerals mined in Central African war zones, saying that although the rule has been in limbo since the D.C. Circuit declared it unconstitutional, negative effects persist.

## ENERGY & ENVIRONMENTAL

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### ND Pols Claim Army Corps Will Issue Dakota Access Approval

The acting secretary of the Army has commanded the U.S. Army Corps of Engineers to grant Dakota Access LLC the final — and much disputed — approval needed to complete its controversial \$3.8 billion, 1,172-mile crude oil pipeline, three North Dakota lawmakers claimed Tuesday despite a contradictory statement from the Army.

### Senate Dems Boycott, Block Pruitt EPA Vote

Senate Democrats on Wednesday blocked the confirmation of President Donald Trump's choice to lead the U.S. Environmental Protection Agency by refusing to attend a scheduled committee vote.

### House Votes To Dam Up Stream Protection Rule

The House passed a measure to repeal a controversial Obama administration rule aimed at minimizing coal mining's harm to surface water and groundwater Wednesday, as part of a package of laws meant to remove the former president's rule legacy.

### Enviros Sue EPA Over Trump-Yanked Mercury Rule

The Natural Resources Defense Council filed suit against the U.S. Environmental Protection Agency in New York federal court on Wednesday over its decision to withdraw a rule aimed at reducing dentists' mercury waste because of an order given by Donald Trump's administration on its first day in office.

## HEALTH & LIFE SCIENCES

American Federation of Teachers  
American Hospital Association  
American Immigration Lawyers Association  
American International Group Inc.  
American Petroleum Institute Inc.  
Apple Inc.  
Apricus Biosciences Inc.  
Arrow Financial Corp.  
Aviation Capital Group  
Bank of America Corporation  
Baxalta Inc.  
Baxter International Inc.  
Brunswick Corporation  
Burger King Holdings Inc.  
CIT Group Inc.  
CME Group Inc.  
CTIA  
CVS Caremark Corporation  
Caesars Entertainment  
Celanese Corporation  
Chevron Corporation  
Church's Chicken  
Citigroup Inc.  
Commonwealth Edison Co.  
Competitive Carriers Association  
Council for Global Immigration  
Covidien PLC  
DISH Network Corporation  
Depository Trust & Clearing Corporation  
Education Management Corporation  
Eli Lilly and Company  
Evercore Partners Inc.  
Exelon Corporation  
Expedia Inc.  
Exxon Mobil Corporation  
FedEx Corporation  
Federalist Society  
Fifth Third Bancorp  
Friedman LLP  
Geeknet, Inc.  
General Electric Company  
Google Inc.  
Guy Carpenter & Co. LLC  
Hobby Lobby Stores

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## HHS Ices 340B 'Mega-Guidance' Amid Regulatory Freeze

The U.S. Department of Health and Human Services has shelved “mega-guidance” that spelled out rules of the road in the 340B drug discount program, a move that follows the Trump administration’s freeze on new regulations.

## ACA Fixes Come Into Focus At Senate Hearing

Health insurance companies and regulators are coalescing around quick policy actions aimed at stabilizing Affordable Care Act marketplaces by tightening enrollment options, trimming benefits and extending subsidies, U. S. senators heard Wednesday.

## IP & TECHNOLOGY

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### Tackling Abusive Patent Suits Is A Priority, Goodlatte Says

House Judiciary Committee Chairman Bob Goodlatte, R-Va., said Wednesday that patent reform would remain a priority for the new Congress, vowing to pursue measures to discourage abusive patent litigation.

## REAL ESTATE

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### Judge Skeptical Of 1st Amend. Challenge To Airbnb Regs

An Illinois federal judge on Wednesday sharply questioned an attorney for a Chicago advocacy group trying to block the city’s shared-housing regulations, asking how commercial transactions like the ones taking place on Airbnb qualified for noncommercial speech protections under the First Amendment.

## EMPLOYMENT

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### NCAA Football Players Are Employees, NLRB GC Says

College football players are employees, the National Labor Relations Board Office of General Counsel said Tuesday, seemingly baiting more football players at private universities to bring unfair labor practice charges or unionization efforts and adding fuel to a growing debate over the rights of NCAA student-athletes.

### OMB Gives New Guidance On Federal Hiring Freeze

The U.S. Office of Management and Budget Tuesday provided more guidance to federal agencies implementing a temporary hiring freeze ordered by President Donald Trump on Jan. 23 in a memorandum outlining the types of exemptions authorized under the freeze.

### GOP Reps. Introduce National Right To Work Bill

The recent right-to-work trend could go national after two Republican members of the House of Representatives introduced a bill Wednesday that would amend the National Labor Relations Act and the Railway Labor Act to let union members across the country opt out of paying mandatory dues.

### Judge Axes Birmingham Challenge To Law Halting Wage Hike

A Birmingham federal judge on Wednesday threw out an NAACP lawsuit that claimed Alabama unconstitutionally targeted minorities by enacting a law that blocked the majority-black city's local minimum wage hike, finding a 2016 statute calling for uniform wages across the state has no affirmative component of discrimination.

## PRIVACY & CONSUMER PROTECTION

IP Owners Association  
International Lease Finance Co  
Javlin Capital LLC  
LinkedIn Corp.  
Mallinckrodt PLC  
Marsh & McLennan Companies Inc.  
Microsoft Corporation  
National Association of Health Underwriters  
National Association of Insurance Commissioners  
National Association of Manufacturers  
National Collegiate Athletic Association  
Natural Resources Defense Council  
Omnicare Inc.  
OneWest Bank Group LLC  
Pac-12 Conference  
Pacific Life Insurance  
PhRMA  
Prime Therapeutics LLC  
Randstad Holding NV  
Reed Elsevier  
SLM Corporation  
Sears Holdings Corporation  
Sequenom, Inc.  
Service Employees International Union  
Suntrust Banks Inc.  
T-Mobile USA Inc.  
The DIRECTV Group, Inc.  
The Royal Bank of Scotland Group PLC  
Time Warner Cable  
TransAm Trucking Inc.  
Twitter Inc.  
U.S. Chamber of Commerce  
U.S. Foods Inc.  
United Western Bancorp, Inc.  
Verizon Communications  
Virtual Radiologic Corporation  
Washington Legal Foundation  
comScore, Inc.

## GOVERNMENT AGENCIES



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## Rep. Looks To Free Consumers From Political Robocalls

A Republican member of the U.S. House of Representatives floated legislation Wednesday that would add political robocalls to the universe of unsolicited communications that can't be blasted out to consumers with numbers on the national Do Not Call list.

## PRODUCT LIABILITY

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### FDA Offers Advice To Food Industry On Drafting Guidance

The U.S. Food and Drug Administration on Tuesday laid out tips for members of the food industry to draft their own food safety guidance documents to help their peers comply with the requirements of the Food Safety Modernization Act.

## INTERNATIONAL TRADE

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### EU, Mexico Still Eyeing Trade Pact Amid Rising Protectionism

Vowing to forge ahead at a time when protectionist sentiments are on the rise and support for trade liberalization is lagging, the European Union and Mexico said Wednesday that they're moving up talks to upgrade their sweeping free trade agreement.

### Hatch Ready To Move On From 'Painful History' Of TPP Failure

Senate Finance Committee Chairman Orrin Hatch, R-Utah, said Wednesday that it was imperative for Congress to put the "painful history" of the Trans-Pacific Partnership in the rearview mirror and allow the Trump administration to take the lead in crafting a new trade strategy.

## IMMIGRATION

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### Ill. Men Who Sued Over Trump Ban To Be Allowed Into US

Two men who sued President Donald Trump in Illinois federal court this week after his executive order on immigration barred them from the country will be allowed back into the U.S., their attorneys said Wednesday.

### Del. To Aid Wash. State Suit Over Trump Immigration Ban

Delaware Attorney General Matt Denn said Wednesday that the First State plans to provide assistance in Washington state's lawsuit to block President Donald Trump's immigration ban, with several legal heavyweights like former state Chief Justice E. Norman Veasey working on the case for free.

## TELECOMMUNICATIONS

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### Cable Group Asks FCC To Bump Regulatory Fees For Satellite

A trade group representing internet and television companies has encouraged the Federal Communications Commission to increase the regulatory fees charged to direct broadcast satellite providers, reasoning that those entities eat up comparable FCC resources as traditional cable and broadband companies.

### FCC Must Not Reallocate High-Frequency Spectrum: Group

NCTA - The Internet & Television Association urged the Federal Communications Commission Tuesday to reject a bid from wireless companies to reallocate currently unlicensed high-frequency bandwidth for

Army Corps of Engineers  
Bureau of Citizenship and Immigration Services  
Centers for Medicare & Medicaid Services  
Central Intelligence Agency  
Delaware Attorney General's Office  
Equal Employment Opportunity Commission  
European Commission  
Executive Office of the President  
Federal Communications Commission  
Federal Reserve System  
Federal Trade Commission  
Food and Drug Administration  
Internal Revenue Service  
National Labor Relations Board  
Office of Surface Mining Reclamation and Enforcement  
Office of the Director of National Intelligence  
Securities and Exchange Commission  
Standing Rock Sioux Tribe  
U.S. Army  
U.S. Copyright Office  
U.S. Customs and Border Protection  
U.S. Department of Agriculture  
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 State  
U.S. Department of Veterans Affairs  
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. Office of Personnel

licensed use, saying the open spectrum is important for the development of short-range unlicensed wireless services.

## **TWC Wants Fed. Court To Take Calif. City's Suit Over Fees**

Time Warner Cable on Tuesday asked a San Diego federal court to take up a suit brought against it by the city of Del Mar, California, in state court over allegedly improper charges for government service fees and withholding the payment of other city fees.

## **EXPERT ANALYSIS**

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### **Why Trump Should Keep Legal Immigrants Legal**

Both the Trump administration and Congress would be wise to leave in place U.S. Citizenship and Immigration Services' new rule aimed at offering job flexibility for high-skilled foreign workers, which was not only enacted in accordance with the Administrative Procedures Act, but also allows skilled foreign workers to maintain their legal status, says Jacob Muklewicz of Kirton McConkie PC.

### **ACA In The Crosshairs: 1st Steps Toward Repeal**

On his first day in office, President Donald Trump signed an executive order confirming his administration's intent to repeal and replace the Affordable Care Act. Clearly, the order confirms that the repeal and replacement of the ACA remains among the Trump administration's highest priorities. However, the order, standing alone, will likely have little impact on the current operation of the ACA, say attorneys at Proskauer Rose LLP.

### **How The Cayman Islands Updated Its Confidentiality Law**

Last year, as part of a move toward transparency, cooperation and information-sharing, the Cayman Islands replaced its 40-year-old confidentiality law with a new statute. The key change is that disclosure of confidential information is no longer a criminal offense; instead, liability is returned to the realm of common law and rules of equity, say Andrew Bolton and Jane Hale of Appleby.

### **Dialing In: Hot TCPA Issues For 2017**

The Federal Communications Commission's new chairman, Ajit Pai, has historically disagreed with many facets of the Telephone Consumer Protection Act. Now that he is in a position to shape the TCPA to his liking, he and several other key factors may significantly impact the future of the act, say attorneys with Eversheds Sutherland LLP.

## **LEGAL INDUSTRY**

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### **The Top In-House Hires Of January**

The new year brought new legal leadership roles to a host of in-house attorneys at companies including Exelon, US Foods and Fifth Third Bank. Here are the in-house hires you should know about.

### **Eversheds Sutherland To Offer Bonuses For Teamwork**

Leadership of the now-combined, 2,300-attorney global giant Eversheds Sutherland, the result of a rare trans-Atlantic tie-up inked in December, revealed Wednesday that the firm has set up special bonus pools to incentivize collaboration among its attorneys.

Management

U.S. Patent and Trademark Off

U.S. Senate

U.S. Supreme Court

United Nations

## IRS Atty 'Broke Bad,' Sold Meth In The Mail, Say Prosecutors

An attorney for the Internal Revenue Service had “better call Saul” after prosecutors on Wednesday arrested and charged the former Debevoise & Plimpton LLP associate and Georgetown Law ethics teacher with conspiring to ship distribution levels of methamphetamine to Long Island from his apartment in Washington, D.C.

## Legal Field Could Benefit From Mindfulness Training: Paper

The benefits of mindfulness are coming to the fore in popular culture and a number of U.S. industries, but little is known about its advantages in the legal field where it has the potential to boost decision-making, ethics and leadership skills, a new paper said Tuesday.

### **JOBS**

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