

From: Public Policy Law360 <news-q@law360.com>
To: Adams, ChaneyChaneyAdams@gov.sc.gov
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Subject: Flush With Cash, Enviro Groups Gird For War With Trump

PUBLIC POLICY

Monday, January 30, 2017

TOP NEWS

Analysis

[Flush With Cash, Enviro Groups Gird For War With Trump](#)

Top lawyers at the Sierra Club, Earthjustice and other green groups say donors have been flooding their coffers and private attorneys are volunteering their services in record numbers since President Donald Trump's election, strengthening them as they gear up for court battles with the new administration over any rollback of environmental protections.

Analysis

[Trump's Wall May Disrupt Trade Before It's Even Built](#)

President Donald Trump's most controversial stances on trade, immigration and tax reform collided this week as the White House's attempt to muscle Mexico into paying for a border wall took a number of wild turns that has left the U.S.-Mexico alliance on shaky ground.

Analysis

[Puzder Book Offers Clues For DOL Role, Confirmation Hearing](#)

Six years before he was nominated to be President Donald Trump's labor secretary, Andrew Puzder co-authored a book about job creation that assailed high tax rates and government regulations on private business, saying they create the type of uncertainty that impedes job growth. Here, Law360 examines ideas in Puzder's book, which may offer clues to arguments he will use in his upcoming confirmation hearing and beyond.

Analysis

[GOP Tax Plan May Increase Transfer Pricing Scrutiny Abroad](#)

House Republicans' proposal to tax imports and not exports could render transfer pricing controversies moot in the U.S., but U.S.-based multinational businesses could still face blowback from foreign governments that are likely to challenge the cost of products and services being traded over international borders.

Analysis

[Pa. Court's Tax Law Reprieve May Fuel Political Maneuvering](#)

The Pennsylvania Supreme Court this month may have acted within a tradition of deference to the legislative branch when it gave lawmakers an extension to fix an unconstitutional tax scheme for casinos, but some attorneys fear the ruling could enable dysfunction in the General Assembly and prompt future attempts at bargaining over court orders.

LAW FIRMS

Akin Gump
Alston & Bird
Arnold & Porter Kaye Scholer
Baker Botts
Baker McKenzie
Balch & Bingham
Barclay Damon
Bell Nunnally
Buchanan Ingersoll
Caplin & Drysdale
Cohen & Grigsby
Cooley
Covington & Burling
Curtin & Heefner
DLA Piper
Dewey & LeBoeuf
Dorsey & Whitney
Drinker Biddle
Dykema Gossett PLLC
Earthjustice
Foley & Lardner
Geragos & Geragos
Gibson Dunn
Greenberg Traurig
Groom Law Group
Hobbs Straus
Hogan Lovells
Hogen Adams
Holland & Knight
Hunton & Williams
Husch Blackwell
Immigration Attorneys LLP
Jones Day
Kelley Drye

Prosecutors Won't Pursue GWB Charges Against Christie

Prosecutors in Bergen County, New Jersey, said Friday they will not pursue an official misconduct charge brought against Gov. Chris Christie in an activist's criminal complaint over lane closures at the George Washington Bridge, saying they could not prove the charge beyond a reasonable doubt.

Analysis

Trump And Tribes: What's In Store For Indian Country

President Donald Trump's decision to push forward the controversial Dakota Access pipeline sent shock waves through Indian Country. But some Native Americans say they're optimistic about the new administration and expect tribes to assume a bigger role in managing their own affairs. Here are the possibilities tribal advocates say they're most worried — and hopeful — about as they look ahead to the next four years.

Trump Bars All Refugees, People From 7 Muslim Nations

President Donald Trump signed an executive order Friday that will temporarily bar people from seven predominantly Muslim nations, stop Syrian refugee admissions, suspend the general refugee program for roughly four months and revise screening measures.

Judge Blocks Trump From Deporting Detained Immigrants

A New York federal judge on Saturday evening ordered the government not to deport immigrants from the U.S. who were being held at airports based on President Donald Trump's executive order barring people from certain Muslim countries, while other courts across the country issued similar rulings.

BANKING & SECURITIES

SEC's First Chief Operating Officer Leaving Commission

The U.S. Securities and Exchange Commission said Friday that its first-ever chief operating officer, Jeffrey Heslop, who is in charge of information technology, financial management and human resources, among other activities, will leave the agency in February.

Del. Bill To Limit Reach Of Escheat Laws Sent To Gov.

Faced with mounting challenges to Delaware's collections of unclaimed or abandoned assets across the country, lawmakers sent Gov. John Carney legislation Thursday that would trim the reach of the state's escheats law, with new amendments said to be already under consideration.

Indian Regulators Set Listing Rules For Exchanges

Securities regulators in India on Friday revealed new rules for stock exchanges that list shares in themselves on other domestic bourses, as the owners of two rival exchanges prepare initial public offerings on each other's markets.

ENERGY & ENVIRONMENTAL

Analysis

Chairman's Hasty Exit Threatens To Cripple FERC

The fast-approaching departure of Norman Bay will leave the Federal Energy Regulatory Commission with just two commissioners, an unprecedented situation for the agency that will prevent it from taking any major actions, such as approving natural gas pipelines, imposing enforcement penalties and

Kilpatrick Townsend

Kirkland & Ellis

Kleinbard LLC

Latham & Watkins

Levine Staller

Mayer Brown

McDermott Will

Morgan Lewis

Morrison & Foerster

Obermayer Rebmann

Orrick Herrington

Paul Hastings

Powers Pyles

Reed Smith

Robins Kaplan

Rutan & Tucker

Seward & Kissel

Shapiro Haber

Sheppard Mullin

Sidley Austin

Skadden

Sonosky Chambers

Squire Patton Boggs

Sullivan & Cromwell

Thompson & Knight

Venable LLP

White and Williams

Wiley Rein

WilmerHale

Womble Carlyle

COMPANIES

Aetna Inc.

Allied Security Trust

Ameren Corporation

America Fujikura Ltd.

American Bar Association

American Civil Liberties Union

American Federation of Labor &
Congress of Industrial
Organizations

American Federation of State,
County and Municipal Employee

American Thoracic Society

American Trucking Association:
Inc.

Apple Inc.

ruling on electricity rate and tariff fights.

[EPA Air Rule Vital For Health, Thoracic Society Tells DC Circ.](#)

The American Thoracic Society defended the U.S. Environmental Protection Agency's cost-benefit analysis of a Clean Air Act rule this week at the D.C. Circuit, saying the standards limiting mercury and other toxic emissions from coal-fired power plants have lessened cancer, asthma and other health risks.

[States Battle Over Review Of Clean Power Plan In DC Circ.](#)

A group of states want the Clean Power Plan dead, and on the first full business day of President Donald Trump's term in office, they asked the D.C. Circuit to review the U.S. Environmental Protection Agency's denial of petitions to reconsider or delay the rule that aims to regulate carbon dioxide emissions from existing power plants.

[Laguna Beach Slams FAA Review Of New SoCal Flight Paths](#)

Laguna Beach, California, told the D.C. Circuit Friday that the Federal Aviation Administration failed to adequately assess noise, air pollution and other environmental impacts in developing its plan to implement new flight paths for Southern California airports as part of its ongoing modernization of the nation's air traffic control system.

[HEALTH & LIFE SCIENCES](#)

[Texas Fetal Tissue Disposal Rule Blocked Until Further Notice](#)

A rule requiring Texas health care facilities to bury or cremate fetal tissue from abortions is temporarily blocked until the court says otherwise, a Texas federal judge said Friday in an order that granted a request for a preliminary injunction and cast doubt on the state's underlying motivations.

[TRANSPORTATION & INFRASTRUCTURE](#)

[NY Says It Got Congress' OK To Use Truck Tolls For Canals](#)

The New York State Thruway Authority said Thursday that Congress granted it permission to use toll road revenues to maintain the state's canal system, and that a federal judge improperly sided with a proposed class of truckers alleging the toll diversions were unconstitutional.

[More Boston Cabbies Claim Uber Operated In City Illegally](#)

Thirty-four Massachusetts taxi companies launched a federal suit Thursday accusing Uber of operating illegally in Boston, milking hefty profits and competing unfairly with traditional taxicabs for five years before the state enacted a law in August regulating so-called transportation network companies.

[EMPLOYMENT](#)

[Ill. AG Asks To Cut Off State Worker Pay Amid Budget Impasse](#)

In a move meant to pressure Illinois lawmakers, Illinois Attorney General Lisa Madigan filed a motion in state court Thursday asking a judge to allow the state government to stop paying its workers until the General Assembly ends its 18-month budget impasse.

[Top House Dems Say Trump Administration Gag Orders Illegal](#)

Senior House Democrats have called on President Donald Trump to reverse

Avaya Inc.

BSE Limited

CKE Restaurants, Inc.

Capital One Financial Corporati

Cargill Inc.

Center for Biological Diversity I

Chevron Corporation

Citigroup Inc.

Culp Inc.

Dell Inc.

Dignity Health

Exterro Inc.

Facebook

FedEx Corporation

Fiat Chrysler Automobiles NV

Franciscan Alliance Inc.

Google Inc.

Humana Inc.

International Brotherhood of
Teamsters

Johnson & Johnson

Koch Industries Inc.

LG Corp.

Lyft Inc.

MoneyGram International, Inc.

Morgan Stanley

Motorola Mobility LLC

Murray Energy Corp.

National Congress of American
Indians

National Immigration Law Cente

National Indian Gaming
Association

National Stock Exchange of Ind
Ltd.

Natural Resources Defense
Council

Nortel Networks Corporation

PricewaterhouseCoopers

QUALCOMM Incorporated

Robert Bosch GmbH

SPX Corporation

Sierra Club

Singapore Exchange Ltd.

TOTAL SA

Temple-Inland Inc.

The Cato Corporation

recent gag orders barring federal employees from speaking publicly amid the ongoing administration transition, saying the censorship appears to violate various federal laws.

Flake Floats Bill To Curb Contractor Prevailing Wage Law

Sen. Jeff Flake, R-Ariz., has introduced legislation that would suspend the Davis-Bacon Act's provision that workers on federal contracts be paid a prevailing wage for all federal highway construction projects just as lawmakers prepare to consider a \$1 trillion infrastructure plan touted by President Donald Trump.

COMPETITION

Analysis

Ohlhausen's Notable Antitrust Dissents As FTC Commish

President Donald Trump on Wednesday appointed Maureen K. Ohlhausen to be acting chair of the U.S. Federal Trade Commission, elevating to the agency's lead role a commissioner who has become known for writing some pithy dissents during her tenure. Here, Law360 looks back at some of Ohlhausen's most memorable dissents.

GOP Says SEC Inaction Doesn't Block Pay-To-Play Review

Three state Republican parties told the Sixth Circuit on Thursday that the Municipal Securities Rulemaking Board's rules increasing pay-to-play restrictions on muni advisers aren't shielded from review just because the U. S. Securities and Exchange Commission failed to affirmatively act on them.

PRIVACY & CONSUMER PROTECTION

Free Market Groups Look To Nix FCC Privacy Rules

A coalition of free market groups on Friday urged Congressional leadership to rescind privacy rules for broadband providers that the Federal Communications Commission adopted in October, arguing that the commission's order lacks proper legal grounding and will likely harm consumers.

PRODUCT LIABILITY

High-Sugar Foods Can't Be 'Healthy,' FDA Hears

The U.S. Food and Drug Administration should refuse to let foods with high levels of added sugar be marketed as healthy or nutritious, a prominent science group said in a citizen petition released Friday.

NATIVE AMERICAN

Ariz. Tribe Pushes Back Against Trump's Border Wall

A Native American tribe with 75 miles of reservation on the U.S.-Mexico border might force a gap into President Trump's border wall, saying Thursday that it opposes the construction of a wall and criticizing the administration for its lack of communication.

EXPERT ANALYSIS

FERC Energy Storage Policy Faces Uncertainty Under Trump

At its meeting on Jan. 19, 2017, the Federal Energy Regulatory Commission

Twitter Inc.

Uber Technologies Inc.

Union of Concerned Scientists

United Steelworkers

Vermeer Corp.

Wal-Mart Stores Inc.

Westar Energy, Inc.

GOVERNMENT AGENCIES

Arizona Corporation Commissi

Attorney Registration and
Disciplinary Commission

Bureau of Citizenship and
Immigration Services

Bureau of Indian Affairs

Bureau of Indian Education

Bureau of Labor Statistics

Bureau of Land Management

Congressional Budget Office

Crow Nation

Delaware Court of Chancery

Equal Employment Opportunity
Commission

Executive Office of the Presiden

Federal Acquisition Regulatory
Council

Federal Aviation Administration

Federal Communications
Commission

Federal Energy Regulatory
Commission

Federal Trade Commission

Food and Drug Administration

Illinois Supreme Court

Indian Health Service

Internal Revenue Service

International Trade Commissio

Los Angeles World Airports

Mississippi Department of
Environmental Quality

Mississippi Public Service
Commission

Municipal Securities Rulemakin
Board

NAFTA

National Labor Relations Board

New York Attorney General's
Office

issued a policy statement affirming its efforts to encourage development of electric storage resources. The statement offers important guidance for entities in the electric power sector. But FERC Commissioner Cheryl LaFleur, who dissented from the statement, has now been named acting FERC chairwoman, complicating the picture, say attorneys from Morgan Lewis & Brockius LLP.

Major DOJ Antitrust Policy Shift On Immunity For Employees

A subtle change buried in the recent update to the U.S. Department of Justice Antitrust Division's leniency guidance represents a significant policy shift that may have an impact on the effectiveness of internal investigations and what companies decide to do based on what they learn, say attorneys with Dykema Gossett PLLC.

Patents Under The Trump Administration

President Donald Trump had no stated patent policy during the campaign, and intellectual property will probably be a low priority. But based on what we know about the administration, we should expect a patent system where it is harder to invalidate patents and easier to enforce patents, consequently leading to more litigation, says Russell Binns of Allied Security Trust.

In Congress: More Cabinet, High Court

Congressional activity this week is likely to be overshadowed by the president's expected announcement of a Supreme Court nominee on Thursday, initiating a confirmation process that will consume a great deal of Senate time in the weeks ahead, say Richard Hertling and Kaitlyn McClure of Covington & Burling LLP.

Learning To Love The New Consumer Review Fairness Act

The recently enacted Consumer Review Fairness Act protects consumers and businesses from the double-edged dangers of using gag clauses in "form contracts." Ross Angus Williams of Bell Nunnally & Martin LLP details specific steps companies can take to ensure compliance and why they shouldn't worry too much about the CRFA once those steps are taken.

Inside The Injunction Blocking ACA Nondiscrimination Rule

In *Franciscan Alliance v. Burwell*, a Texas federal court recently issued a preliminary injunction preventing the U.S. Department of Health and Human Services from enforcing certain provisions of its final rule prohibiting specific types of discrimination in health programs or activities. The case is of particular interest because of its national impact, say Lisa Campbell and Tamara Killion of Groom Law Group.

LEGAL INDUSTRY

Ex-Chrysler GC Offers 4 Tips For Weathering A Crisis

After an eventful 15 years in-house in the auto industry, Marjorie Loeb, who led Chrysler's legal department through its merger with Fiat, has weathered sweeping transformations and crises set against the backdrop of an industry in flux. Here, she shares her best advice for legal department leaders in the best of times and the worst of times.

Venable Atty Gets \$250 From Rival Lawyer In Coffee Clash

An attorney who spilled — or perhaps threw — a cup of iced coffee on a Venable LLP lawyer during a deposition must pay him \$250 to cover his

Occupational Safety and Health Administration
Port Authority of New York & New Jersey
Securities and Exchange Commission
Small Business Administration
Social Security Administration
Solicitors Regulation Authority
Standing Rock Sioux Tribe
Texas Attorney General's Office
Tohono O'odham Nation
U.S. Army
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 the Interior
U.S. Environmental Protection Agency
U.S. House of Representatives
U.S. Patent and Trademark Office
U.S. Senate
U.S. Supreme Court
United Nations

damages, according to a California federal judge who on Thursday scolded both attorneys for their behavior in a contentious trade secrets case.

[Jury Selection Drags On For Dewey Execs In Round 2](#)

The first week of jury selection wrapped up on Friday for the second trial of two former top executives of Dewey & LeBoeuf LLP, who are charged with orchestrating a scheme to defraud the onetime megafirm's lenders and investors out of tens of millions of dollars before it collapsed.

[E-Discovery Still A Challenge For Attorneys, Judges Say](#)

Federal judges believe the average attorney does not always have what it takes to properly guide clients through the e-discovery process, but overall attorney competency in these matters continues to steadily improve, according to a new study released Thursday.

[GC Cheat Sheet: The Hottest Corporate News Of The Week](#)

The U.S. Environmental Protection Agency hits pause on 30 pending regulations, federal judges say most lawyers lack e-discovery chops, and a California federal court calls for class plaintiffs to disclose whether any third parties are funding the claims. Those stories top this past week's corporate legal news you may have missed.

[III. Likely Set Trend For New Professional Conduct Training](#)

Lawyers can look forward to having more practice management training tied to their bar license requirements as other states follow in Illinois' footsteps and force lawyers to spot bad habits before they turn into a complaint or malpractice suit, experts say.

[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.

[Call For Participants: Law360's 2017 Editorial Advisory Boards](#)

Law360 is looking for avid readers of its publications to serve as members on its 2017 editorial advisory boards.

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