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Subject: SEC Shows No Patience For Muzzling Whistleblowers

PUBLIC POLICY

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Friday, August 12, 2016

TOP NEWS

SEC Shows No Patience For Muzzling Whistleblowers

The U.S. Securities and Exchange Commission on Wednesday took aim at severance agreements that prevent whistleblowers from collecting cash for their tips, making clear that the agency has no patience for impeding whistleblowing in any form and suggesting it may impose even broader requirements on employers that step out of line.

Clinton Says She'll Move Beyond Dodd-Frank's Bank Rules

Former Secretary of State Hillary Clinton on Thursday said that she intends to tighten financial regulations if she wins the presidential election in November even as she hopes to roll back red tape in order to spur lending by community banks and credit unions.

W.Va. Judge Stops Right-To-Work Law After Union Challenge

A West Virginia judge temporarily blocked the state from enforcing its right-to-work law on Wednesday, delivering a win to the AFL-CIO and a coalition of other unions that argued the law violates the state constitution.

DEA Expands Marijuana Research But Won't Reclassify Drug

The U.S. Drug Enforcement Administration on Thursday said that it has denied two petitions to reschedule marijuana under the Controlled Substances Act, but has increased the number of manufacturers allowed to supply researchers with the plant.

Texas Voter Accommodation Plan OK'd After ID Law Tossed

A Texas federal judge on Wednesday signed off on an interim plan that allows Texans to vote without photo identification in November, while the state continues to fight a court ruling that the controversial voter ID law violated the Voting Rights Act by imposing an unfair burden on minorities.

ANALYSIS

Former WTO Deputy Sees Long Slog Toward New Trade Talks

The ongoing effort to craft a new negotiating agenda at the World Trade Organization has been slow to develop, and former WTO Deputy Director-

LAW FIRMS

Akin Gump
Alston & Bird
BakerHostetler
Ballard Spahr
Burr & Forman
Clarence Dyer
Cravath Swaine
Dechert
Fenwick & West
Fox Rothschild
Gibbons PC
Gibson Dunn
Gonzalez Saggio
Harkins Cunningham
Hunton & Williams
Jackson Lewis
Jones Day
Katz Marshall
King & Spalding
Labaton Sucharow
Latham & Watkins
Mayer Brown
Morrison & Foerster
Munger Tolles
Orrick Herrington
Pashman Stein
Paul Hastings
Paul Weiss
Pepper Hamilton
Pietragallo Gordon

General Rufus Yerxa told Law360 that there likely won't be any meaningful outcomes in Geneva until at least the middle of next year.

Privacy Policy To Watch For The Rest Of 2016

With the presidential election looming, Congress is likely to limit itself to must-do tasks such as deciding whether to block a proposed rule change that would expand judges' authority to give the FBI access to private computers. But other policymakers such as the Federal Communications Commission and state lawmakers are expected to step in and push to revamp the rules surrounding topics including broadband privacy and the use of biometric identifiers, attorneys say.

How Mass. Employers Should Prep For New Pay Equity Law

Massachusetts' sweeping new law against gender pay inequality doesn't go into effect for another two years, but employment attorneys in the Bay State are already preparing for a new regulatory regime that experts say will likely result in broad revisions to hiring policies and an increase in lawsuits. Here are six things employers should do to get ready.

ENERGY & ENVIRONMENTAL

EPA Lets Tribe Develop Water Quality Standards Under CWA

A California Native American tribe will be able to develop its own water quality standards within its reservation under the federal Clean Water Act just as states are authorized to do, the U.S. Environmental Protection Agency announced on Wednesday.

New Coal Plant Wastewater Rules Already In Trouble: Report

New federal regulations to reduce toxic water pollution from coal-fired power plants could be undermined by severe delays in installing pollution control equipment, backlogs of expired coal plant permits and weak oversight, an environmental nonprofit said Thursday.

Gov't Urges Justices To Back 9th Circ. On Sturgeon Habitat

The federal government has urged the U.S. Supreme Court not to disturb a Ninth Circuit ruling that upheld the designation of 8.6 million acres in California, Oregon and Washington as critical habitat for the threatened green sturgeon.

HEALTH & LIFE SCIENCES

Feds Float New ACA Help For Insurers, See Costs Easing

Federal regulators on Thursday floated new protections to shield Affordable Care Act insurers from high-cost enrollees, while simultaneously asserting that "very encouraging" data show overall costs stabilizing in ACA marketplaces.

IP & TECHNOLOGY

TechFreedom Urges Congress To Block Internet Transition

Advocacy group TechFreedom led a coalition of conservative organizations and others Wednesday in urging the U.S. House of Representatives to block, with a lawsuit if necessary, the planned transfer of sole American control over internet address and domain name management.

MEDIA & ENTERTAINMENT

Prince Lobel

Proskauer Rose

Reed Smith

Richards Rodriguez

Sidley Austin

Skadden

Stephoe & Johnson LLP

Thompson Hine

Turner Boyd

Walder Hayden

Wiley Rein

Winston & Strawn

COMPANIES

AAR Corporation

AT&T Inc.

America Fujikura Ltd.

America's Health Insurance Plan

American Bar Association

American Civil Liberties Union

American Federation of Labor and
Congress of Industrial
Organizations

American Hospital Association

American Society Of Composers,
Authors & Publishers

American Trucking Associations
Inc.

Apple Inc.

Association of American Railroads

AstraZeneca

Bank of America Corporation

BlueLinx Holdings, Inc.

Bristol-Myers Squibb Company

CSX Corporation

Canadian National Railway
Company

Chevron Corporation

Citigroup Inc.

Comcast Corporation

Credit Suisse Group AG

DTE Energy Company

Deloitte Touche

Delta Air Lines Inc.

Deutsche Bank AG

Electronic Frontier Foundation

Facebook

Political Adviser Says Pa. AG Ordered Grand Jury Leak

A political operative told a Pennsylvania jury on Thursday that he conspired with the state's embattled attorney general to leak confidential investigative material to the press and later fabricated a story with her to pin the crime on a top deputy.

Media Co. Loses NJ Appeal To Access Bridge Scandal Names

A New Jersey news outlet on Thursday lost its bid to access the identities of Gov. Chris Christie administration figures who had sought legal representation amid the investigation of the George Washington Bridge lane closures, after an appeals court ruled the information isn't a public record.

TRANSPORTATION & INFRASTRUCTURE

NY Cannot Divert Truck Tolls To Maintain Canals, Judge Says

A New York federal judge ruled Wednesday that the state improperly diverted toll revenues collected from commercial trucks to maintain canals upstate, handing truckers a major win in their proposed class action claiming the practice was unconstitutional and violated the Commerce Clause.

NJ, NY Officials Clash Over Design Contest For Bus Terminal

Elected officials from New Jersey on Thursday urged the Port Authority of New York and New Jersey to continue with a design competition for a new bus terminal and expressed confidence that the process would be transparent, a day after New York officials reiterated their call to terminate the contest amid concerns that the public has been shut out.

Challenges To STB On-Time Rule Gain Steam In DC Circ.

The nation's largest railroads on Tuesday mounted a D.C. Circuit challenge alleging the Surface Transportation Board overstepped its authority when it finalized a rule last month defining what it considers an on-time Amtrak train arrival or departure when investigating railroads for delays.

PRIVACY & CONSUMER PROTECTION

Standards Agency Calls For Public Input On Cybersecurity

A federal standards-setting agency used Wednesday's Federal Register to appeal to the public for input on cybersecurity problems in the digital economy and their solutions, information it plans to use when advising a federal task force on cybersecurity.

TAX

UK Tax-Friendly Investment Funds May Face Reporting Rules

The United Kingdom is planning to impose reporting requirements on the country's new tax-incentivizing investment vehicles, according to a government paper containing proposals to hand over investor information to Her Majesty's Revenue and Customs.

IRS May Be Awarding Contracts To Tax Delinquents

The IRS may be violating statutory requirements to not grant contract awards to corporations with unpaid federal tax liabilities, because the agency lacks an effective process for identifying tax-delinquent contractors, according to a July 20 report made public Wednesday.

IMMIGRATION

Fannie Mae
FedEx Corporation
Freddie Mac
GNC Corporation
Goldman Sachs Group Inc.
Google Inc.
Humana Inc.
International Brotherhood of Teamsters
Internet Corporation for Assigned Names and Numbers
KBR, Inc.
Kentucky Derby
Lawyers' Committee for Civil Rights Under Law
Liberty Mutual
Microsoft Corporation
NBCUniversal Inc.
NJ Transit Corp.
National Association of Broadcasters
National Railroad Passenger Corporation
National Right to Work Legal Defense Foundation
New York Times Co.
Norfolk Southern Corporation
PG&E Corporation
Pacific Legal Foundation
Pandora Media Inc.
PayPal Inc.
Perry Capital LLC
PricewaterhouseCoopers
Public Company Accounting Oversight Board
R.J. Reynolds Tobacco Co.
State Bar of California
Taylor Bean & Whitaker Mortgage Corp.
TechFreedom
The Bank of New York Mellon Corporation
Time Warner Cable
Union Pacific Corporation
UnitedHealth Group Inc.

GOVERNMENT AGENCIES

Chickasaw Nation

Most DACA Enrollees Reapplying For Deportation Relief

Ninety-three percent of Deferred Action for Childhood Arrivals participants who are eligible to apply for renewal have done so, though hundreds of thousands of eligible immigrants have failed to apply for the program in the first place, the Migration Policy Institute said Thursday.

NATIVE AMERICAN

9th Circ. Remands Navajo's Suit To Consider Other Tribes

After reviving the Navajo Nation's suit seeking the return of human remains and funerary objects taken from its reservation by the National Park Service earlier this year, the Ninth Circuit remanded the case on Wednesday to figure out whether any of the other tribes with connections to the items are necessary parties.

Chickasaw, Choctaw, Okla. Reach Water Rights Deal

The Chickasaw and Choctaw Nations, the state of Oklahoma and Oklahoma City announced on Thursday that they had arrived at a deal poised to end a long-running water-rights dispute, once it receives approval from Congress.

Navajo Leader Urges Expedited Gold King Compensation

The speaker of the Navajo Nation Council has called on the federal government to accelerate the process for compensating farmers and livestock owners impacted by last year's Gold King Mine disaster, which spilled millions of gallons of wastewater into a river system that flows through the tribe's lands.

TELECOMMUNICATIONS

Media Market Cross-Ownership Rules Are Upheld By FCC

The Federal Communications Commission Wednesday refused to ease ownership rules for local media companies despite complaints that the restrictions are outdated for the modern media landscape, an agency official confirmed.

Prison Tech Co. Promises FCC Rate Caps Challenge

A prison technology provider revealed its plans Thursday to file a legal challenge to the newly raised Federal Communications Commission rate caps on inmate phone calls, saying the caps are still too low.

FCC Limits Some Debt-Collection Robocalls To 3 Per Month

Collectors of federally backed debts, like some mortgages and student loans, cannot call or text consumers more than three times a month, the Federal Communications Commission said Thursday, adding a new wrinkle to the body of Telephone Consumer Protection Act rules it's been constructing in recent months.

FCC Approves 3 New Warning Codes For Severe Weather

The Federal Communications Commission on Wednesday finalized three new codes for the U.S. Emergency Alert System to provide to broadcasters for notifying the public of emergencies and dangers to life and property.

PEOPLE

Choctaw Nation of Oklahoma
Commodity Futures Trading Commission
Congressional Budget Office
Consumer Financial Protection Bureau
Department of Commerce
Drug Enforcement Administration
Equal Employment Opportunity Commission
Federal Bureau of Investigation
Federal Communications Commission
Federal Emergency Management Agency
Federal Housing Finance Agency
Federal Railroad Administration
Federal Trade Commission
Financial Crimes Enforcement Network
Food and Drug Administration
Government Accountability Office
Hopi Tribe
Internal Revenue Service
International Trade Commission
National Economic Council
National Institute of Standards and Technology
National Labor Relations Board
National Marine Fisheries Service
National Oceanic and Atmospheric Administration
National Park Service
National Telecommunications and Information Administration
Navajo Nation
New York Attorney General's Office
New York Power Authority
Occupational Safety and Health Administration
Permanent Court of Arbitration
Port Authority of New York & New Jersey
Securities and Exchange Commission
Social Security Administration
Southern Ute Indian Tribe

Obama Taps Ex-Congressional Staffer As ITC Vice Chair

President Barack Obama informed lawmakers on Thursday that he has appointed former congressional staffer and trade attorney David Johanson to serve as vice chairman of the U.S. International Trade Commission.

SEC Names New Co-Head Of Investment Adviser Exams

The U.S. Securities and Exchange Commission has tapped one of its leaders on the West Coast to co-head its investment adviser examination program, the regulator said on Wednesday.

EXPERT ANALYSIS

Why The Government's Wall Of Secrecy Must Fall

In recent years, investors in Fannie Mae and Freddie Mac have challenged the federal government in court, following the government's decision to hide thousands of documents in the name of executive privilege. This case has critical implications for the transparency and accountability of the government's actions, says Saikrishna Prakash, the James Monroe Distinguished Professor of Law at the University of Virginia Law School.

A Look At New Treasury Rules For Family Entities

The U.S. Department of the Treasury recently proposed regulations that will likely increase the value of intrafamily transfers of equity interests in a family-controlled business entity and also increase the number of valuation disputes between taxpayers and the government, says Mark Conway of Thompson Hine LLP.

Crackdown On Money Laundering In Real Estate Is Expanding

Some in the real estate industry were skeptical about whether the Financial Crimes Enforcement Network's geographic targeting orders focused on Manhattan and Miami-Dade would be effective in curbing money laundering. It appears, however, that FinCEN's early efforts have produced valuable leads for law enforcement, says Matthew Lee of Fox Rothschild LLP.

Can CMS Curtail The Medicare Appeals Backlog?

The Centers for Medicare and Medicaid Services has struggled to adopt measures to lessen the Medicare appeals backlog, as previous approaches included reliance on insufficient technological advancements. However, the most significant modification in its newly proposed rule focuses on the adoption of precedential decisions, say Scot Hasselman and Rahul Narula at Reed Smith LLP.

FLSA Compliance And The Fluctuating Workweek Method

In light of the U.S. Department of Labor's announced change to the minimum salary required to maintain salary-exempt status under the Fair Labor Standards Act, many employers are considering the adoption of the fluctuating workweek method. Clark Spoden at Burr & Forman LLP details how to implement the method for nonexempt employees after the minimum salary requirement goes into effect for exempt employees.

The Evolution Of EPA's Source Determination Rule

Although inconsistent source determinations will continue, it appears the three factors the U.S. Environmental Protection Agency uses to define "adjacent" for sites under common control in its new source determination rule will bring long-awaited clarity in onshore oil and gas source aggregation decisions, say

Surface Transportation Board

Tennessee Valley Authority

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 the Treasury

U.S. Environmental Protection Agency

U.S. House of Representatives

U.S. Supreme Court

LEGAL INDUSTRY

BigLaw Desperately Seeking Experienced Associates

The legal industry is facing a shortage of highly qualified midlevel associates, according to experts who blame the deficiency on a dearth of associate hiring after the 2008 financial crisis, and finds itself having to adjust to make up for the deficit.

Litigation Powerhouse: King & Spalding

King & Spalding LLP earned a spot among Law360 Litigation Powerhouses by making its mark around the globe and in multiple industries, from representing energy giant Chevron in high-stakes, investor-state arbitration cases to securing a major copyright win for internet music giant Pandora.

Law360's Weekly Verdict: Legal Lions & Lambs

Gibson Dunn became this week's top legal lion when the Second Circuit concluded Monday that a \$9.5 billion Ecuadorean oil pollution judgment against its client Chevron is unenforceable, while in the legal lambs category, a jury on Tuesday ruled against Latham & Watkins LLP and Clarence Dyer & Cohen LLP client PG&E, finding it guilty of criminal wrongdoing in a gas-line explosion.

Calif. Bar's Funding On The Line In Stalled Reform Talks

A stalemate over a State Bar of California dues bill currently pending in the Golden State's Legislature is raising concerns that deep divides among lawmakers, lawyers and the judiciary about how best to restructure the group, which has been beset by a series of personnel and financial problems in recent years, will cut off its primary funding source.

Romance Reports Don't Clear Up Fifth Third GC's Firing

Reports that Fifth Third Bank fired its former General Counsel Heather Russell over her personal relationship with Fannie Mae CEO Tim Mayopoulos do little to explain what, exactly, led to the termination, according to legal ethics experts and sources familiar with the situation.

Step toe & Johnson Extends Reach Of Blockchain Practice

Step toe & Johnson LLP is expanding its blockchain practice past advising the regulars in the emerging technology's ecosystem to counseling clients in a variety of industries now facing complex legal questions, boosting the depth of what is already one of the top shops for blockchain law nationwide.

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