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Subject: Bigger Regulatory Role Seen For States With Pruitt-Led EPA

PUBLIC POLICY

Friday, December 9, 2016

TOP NEWS

Bigger Regulatory Role Seen For States With Pruitt-Led EPA

President-elect Donald Trump's choice of Oklahoma Attorney General Scott Pruitt to lead the U.S. Environmental Protection Agency signals that Trump is serious about decimating the Obama administration's climate change-focused agenda and having states take the wheel on crafting environmental and energy policy.

House Passes Water Infrastructure Bill With Flint Aid

The U.S. House of Representatives pushed through a major water infrastructure bill on Thursday that includes aid for the water crisis in Flint, Michigan, even as Democrats objected to new provisions they said could strip environmental protections in California.

Congress Passes \$619B Defense Policy, Reform Bill

Congress has sent a series of major defense reforms to the president's desk following a Senate vote to pass a \$619 billion National Defense Authorization Act on Thursday, with changes to Pentagon bureaucracy, acquisitions and funding.

House Passes Gov't Funding Bill With Uncertain Senate Fate

The House of Representatives passed a measure to keep the federal government running into the first several months of President-elect Donald Trump's term Thursday, sending the bill to the Senate a day before funding runs out.

Lawmakers Unveil 1st Policy Proposal of Copyright Review

House Judiciary Committee Chairman Bob Goodlatte, R-Va., and Ranking Member John Conyers Jr., D-Mich., unveiled the first policy proposal to emerge from the committee's yearslong review of U.S. copyright law Thursday, which they said will modernize the U.S. Copyright Office and equip it to deal with the challenges of the 21st century.

Trump Taps Fast-Food CEO As Labor Secretary, Reports Say

President-elect Donald Trump will reportedly nominate as his labor secretary Andrew Puzder, the chief executive of the company that operates fast food chains Hardee's and Carl's Jr. and a former attorney at Lewis Brisbois Bisgaard & Smith LLP and Stradling Yocca Carlson & Rauth PC.

Fed To Release Final Bank 'Bail In' Rule Next Week

LAW FIRMS

Allen & Overy
Arnold & Porter
Baker Botts
Beveridge & Diamond
Butler Snow LLP
Center for Constitutional Litigati
Clifford Chance
Cohan Rasnick
Constangy Brooks
Cravath Swaine
Day Pitney
Debevoise & Plimpton
Dorsey & Whitney
Drinker Biddle
Earthjustice
Freshfields
Garvey Schubert
Goldstein & Russell
Greenberg Gross
Hicks Porter
Hogan Lovells
Hunton & Williams
Jackson Lewis
King & Spalding
Kirkland & Ellis
Latham & Watkins
Levin Papantonio
Lewis Brisbois
Littler Mendelson
Manko Gold
Mayer Brown
Mazie Slater
Milbank Tweed
Mintz Levin

The Federal Reserve revealed plans Thursday to release a final version of a rule that will require the eight largest U.S. banks to maintain an extra level of capital, including a required level of long-term debt, aimed at preventing a future taxpayer bailout.

FCC's Wheeler Agrees To Step Aside To Help Rosenworcel

Federal Communications Commission Chairman Tom Wheeler has agreed to step down immediately if doing so would allow Democratic Commissioner Jessica Rosenworcel to be reconfirmed by the Senate even as Republicans continued to call Thursday for ensuring a GOP agency majority.

DOJ Brass Ties Criminal Overreach To Green Prosecutors

U.S. Department of Justice official Leslie Caldwell said Thursday that a lack of experience and oversight at some U.S. attorney's offices drives questionable criminal prosecutions, encouraging defense attorneys to flag their concerns to the agency's headquarters.

BANKING & SECURITIES

Canadian Securities Regulators Step Up ETF Disclosure

The Canadian Securities Administrators on Thursday published final amendments that now require exchange-traded mutual funds to file disclosure documents called "ETF Facts" that spell out the risks for investors and help them make informed decisions about the products they're buying.

SEC Enforcement Head Leaving Agency By End Of Month

U.S. Securities and Exchange Commission Enforcement Division Director Andrew J. Ceresney will step down from his post as the agency's top cop, the SEC announced Thursday, ending a nearly four-year term in which the agency brought record numbers of actions and collected billions in fines from wrongdoers.

SEC Chair Warns Trump Not To Eliminate Dodd-Frank Rules

Outgoing U.S. Securities and Exchange Commission Chair Mary Jo White on Thursday joined the chorus of financial regulators urging the incoming Trump administration not to discard the Dodd-Frank Act and its financial reforms.

ENERGY & ENVIRONMENTAL

EPA Makes Vapor Intrusion A Superfund Criteria

The U.S. Environmental Protection Agency on Wednesday finalized a rule that makes vapor intrusion a hazard that can qualify sites for the Superfund National Priorities List.

No Forest Work Without Feds' OK, 10th Circ. Says

The Tenth Circuit on Thursday ruled that a New Mexico county can't mitigate fire danger in a national forest without the approval of the U.S. Forest Service, writing in a published opinion that the federal government's constitutional authority over federal land trumps state and county laws.

Local Biosolids Ban Not Backed By Law, Facts, Judge Says

A California state judge has struck down a 2006 county measure banning the use of disinfected and dried-out sewage sludge on its land following years of litigation, saying the county ordinance runs afoul of state law and that the material poses no risk to residents.

Morgan Lewis

Morrison & Foerster

Nabarro LLP

Olswang LLP

Orrick Herrington

Patterson Belknap

Paul Weiss

Perkins Coie

Pillsbury Winthrop

Pryor Cashman

Quinn Emanuel

Riker Danzig

Robins Kaplan

Robinson & Cole

Ropes & Gray

Seaton Peters

Shapiro Arato

Shawe & Rosenthal

Skadden

Somach Simmons

Stradling Yocca

Sullivan & Cromwell

Watson Heidelberg

Wilkinson Walsh

WilmerHale

Woodruff Spradlin

Zeisler & Zeisler

COMPANIES

AT&T Inc.

Amazon.com Inc.

Apollo Global Management LLC

Apple Inc.

Arizona Cardinals

Bank of America Corporation

Boston Bruins

CKE Restaurants, Inc.

CRA International Inc.

CSTV Networks Inc.

Carolina Hurricanes

Charter Communications Inc.

Citigroup Inc.

DISH Network Corporation

E. I. du Pont de Nemours and Company (DuPont)

Environmental Defense Fund Inc.

Facebook

Feds Back 6th Circ. As Jurisdiction For Water Rule Cases

The federal government urged the U.S. Supreme Court on Wednesday not to review the Sixth Circuit's decision to assert exclusive jurisdiction over challenges to the controversial Clean Water Rule.

Groups Ask DC Circ. To Make EPA Rethink Mercury Rule

Power industry and environmental groups have submitted briefs to the D.C. Circuit challenging the Environmental Protection Agency's mercury and air toxins standards, with both camps demanding the court force the agency to reassess the rules but for different reasons.

IP & TECHNOLOGY

US Reps Urge Canada To Let Canadian Ads Into Super Bowl

Four U.S. Congress members on Thursday joined the National Football League and Canadian broadcasters in urging Canadian broadcast regulators to reverse themselves and allow Canadian advertisements to play in the nation's broadcast of the 2017 Super Bowl.

USPTO Refuses Las Vegas 'Golden Knights' TM Application

The U.S. Patent and Trademark Office refused an application by the National Hockey League's Las Vegas expansion franchise for a trademark for the nickname Las Vegas Golden Knights, citing a "likelihood of confusion" with the registration for the Golden Knights of The College of Saint Rose.

Photographer Drops Suit Against Trump Over Skittles Image

The photographer who accused President-elect Donald J. Trump's campaign of copyright infringement after his son's infamous use of an image of a bowl of Skittles is dropping the suit after the matter was "amicably resolved," his attorney told Law360 on Thursday.

MEDIA & ENTERTAINMENT

Reps Want 'Disco Era' FCC Media Ownership Rules Gone

A pair of House lawmakers introduced a bill Wednesday that would repeal the "disco era" ban currently enforced by the Federal Communications Commission barring cross-ownership of a broadcast station and a daily newspaper in the same market.

EMPLOYMENT

Persuader Case Halted Pending Trump DOL Action

A Minnesota federal judge Wednesday put on ice a lawsuit challenging the U. S. Department of Labor's so-called persuader rule, which requires employers to report arrangements to influence workers regarding union representation, asking the Trump administration to inform the court whether it will scrap the rule entirely.

5th Circ. Will Fast-Track DOL Overtime Rule Appeal

The Fifth Circuit on Thursday agreed to accelerate the U.S. Department of Labor's appeal of an injunction blocking its revised overtime rule for white collar workers, requiring briefing in the case to be completed by the end of January.

PRIVACY & CONSUMER PROTECTION

Fannie Mae

FedEx Corporation

Federalist Society

Fidelity National Financial Inc.

Florida Justice Association

Goldman Sachs Group Inc.

Google Inc.

Human Rights Campaign

Internet Corporation for Assigned

Names and Numbers

JPMorgan Chase & Co.

Johnson & Johnson

Koch Industries Inc.

Lincoln National Corporation

Major League Baseball Inc.

Mars Inc.

Morgan Stanley

NFL Enterprises LLC

National Association of

Broadcasters

National Association of Home

Builders

National Association of

Manufacturers

National Collegiate Athletic

Association

National Federation of

Independent Business

National Hockey League

Och-Ziff Capital Management

Group LLC

PHH Corporation

Pittsburgh Penguins

Samsung Electronics Co. Ltd.

Sierra Club

St. Louis Cardinals

State Farm

State Street Corp.

T-Mobile USA Inc.

The Bank of New York Mellon

Corporation

Twitter Inc.

UBS AG

United Technologies Corporati

Vascular Solutions Inc.

Verizon Communications

VimpelCom Ltd.

Fla. Justices Told Med Mal Pre-Suit Notice Violates Privacy

A woman who initiated a medical malpractice suit asked the Florida Supreme Court on Thursday to strike a 2013 law that amended the state's malpractice pre-suit notice to allow doctors to disclose patient information, arguing that it violates her privacy.

GOVERNMENT CONTRACTS

NASA Launches Idea To Award High-Performing Contractors

NASA on Thursday unveiled a proposed rule aimed at incentivizing contractors by tacking on additional periods of performance to a contract, providing that certain conditions are met, including "superior" work from the contractor and an ongoing need from the government.

TAX

Koch Industries Says GOP Import Tax Would Be 'Devastating'

Koch Industries Inc. has raised objections to a crucial piece of the House GOP tax overhaul plan, saying a proposal to tax imports to dissuade U.S. companies from going offshore could be "devastating" to the U.S. economy and its consumers.

IRS Finalizes Tax-Exempt Bond Issue Price Rules

The Internal Revenue Service issued final regulations Thursday adapting to commenter concerns on its floated definition of tax-exempt bonds issue prices, retaining a rule pegging price to when 10 percent of bonds have been sold to the public and clarifying that issue price is what the buyer paid.

Portland Levies New Tax On Firms With Sky-High CEO Pay

The City Council of Portland, Oregon, approved a surtax Wednesday on publicly traded companies operating there whose CEOs earn at least 100 times as much as their median worker, making it the first U.S. city to employ the tactic aimed at combating wage inequality.

IMMIGRATION

Stopgap Bill Leaves Out H-2B Returning-Worker Provision

A provision letting temporary guest workers on H-2B visas count as "returning workers," and thereby avoid a cap on the visas, was excluded from the stop-gap funding bill making its way through Congress this week, according to industry groups, despite advocacy to revive the exemption from some in the hotel and landscaping fields.

TELECOMMUNICATIONS

Broadcasters Hit 'Self-Serving' Move To Stall FCC Standard

The American Television Alliance is inappropriately seeking to delay a new broadcast TV standard that will promote innovation and competition, and the Federal Communications Commission should ignore it and issue a proposal on the standard, the National Association of Broadcasters told the agency Thursday.

Agency Chief Says Domain System Transition Is Opportunity

The head of the National Telecommunications Information Administration says that the successful move to privatize the domain name system, with the

Wal-Mart Stores Inc.

Washington Post Co.

Waste Management, Inc.

Wells Fargo & Co.

Yahoo! Inc.

GOVERNMENT AGENCIES

Army Corps of Engineers

Consumer Financial Protection Bureau

Department of Commerce

Federal Acquisition Regulatory Council

Federal Communications Commission

Federal Reserve System

Federal Trade Commission

Food and Drug Administration

Government Accountability Office

Internal Revenue Service

Library of Congress

NAFTA

National Aeronautics and Space Administration

Securities Investor Protection Corp.

Securities and Exchange Commission

U.S. Army

U.S. Attorney's Office

U.S. Copyright Office

U.S. Department of Defense

U.S. Department of Justice

U.S. Department of Labor

U.S. Department of Veterans Affairs

U.S. Environmental Protection Agency

U.S. Forest Service

U.S. General Services Administration

U.S. House of Representatives

U.S. Patent and Trademark Office

U.S. Senate

U.S. Supreme Court

U.S. handing over the task to a multistakeholder community, presents a moment to expand and extend the same model elsewhere in internet policy.

Broadcasters Drop DC Circ. Challenge Of FCC Rules

The D.C. Circuit on Thursday signed off on a request from the National Association of Broadcasters to drop its challenge to the Federal Communications Commission's media ownership restrictions, a request NAB had filed one day after it took up the rules with the FCC directly.

EXPERT ANALYSIS

PHH And The Future Of CFPB: 10 Questions And 9 Answers

Following the D.C. Circuit's recent decision in PHH v. Consumer Financial Protection Bureau and the outcome of the presidential election, many questions about how the PHH litigation may proceed and the future of the CFPB have emerged. Attorneys with Morrison & Foerster LLP share their views on a number of questions arising from this litigation.

Proxy Advisory Firms In The Regulatory Spotlight

We anticipate that a new U.S. Securities and Exchange Commission will build on the dialogue and focus facilitated by its predecessor commission and consider regulation in light of growing attention on proxy advisory firms, say Bonnie Barsamian and Marc Leaf of Drinker Biddle & Reath LLP.

A Closer Look At The Calif. Pay Gap And Equal Pay Act

A literal reading of California's new Equal Pay Act may lead one to conclude that an employer is responsible for any measurement of a gender pay differential whether statistically significant or not. However, this interpretation ignores the statistical principles upon which the estimate is based and introduces potentially harmful unintended consequences, say Jonathan Blumenstein and Charles Diamond of Charles River Associates.

Understanding Ohio's Downtown Redevelopment Districts

The Ohio state legislature recently established the procedure for designating downtown redevelopment districts and innovation districts in the state. These powerful new tools can also be combined with existing economic development incentives, but the key to their successful implementation is determining when to use the correct incentives mix in the given circumstances, say Scott Ziance and Chris Clements of Vorys Seymour Sater and Pease LLP.

Lawyer EQ: Finding Success In Every Interaction

American legal education relies almost exclusively on analytical thinking. But success in legal practice depends in large part upon an accurate emotional understanding of oneself and the human seated opposite us. Honing emotional intelligence skills can lead to greater success, and Judith Gordon of LeaderEsQ offers a few tools that can be implemented immediately to raise one's emotional intelligence quotient.

LEGAL INDUSTRY

BigLaw Belt Tightening Squeezes Domestic Partner Benefits

A small but significant portion of BigLaw firms are rolling back health coverage for employees' domestic partners or considering the cost-cutting move as they look for new ways to slow rising overhead, experts say.

Greenberg Gross Beats Cravath On Bonuses

Orange County-based Greenberg Gross LLP on Thursday announced that it was handing out associate bonuses that would exceed the scale set last week by Cravath Swaine & Moore LLP by at least \$5,000, leaving it among a handful of firms to sweeten the year-end bonus pot.

Law360's Weekly Verdict: Legal Lions & Lambs

The center of the action this week was at the U.S. Supreme Court, where Samsung lawyers at Quinn Emanuel Urquhart & Sullivan LLP snatched a big prize from patent war rival Apple. Our legal lions are led by Garvey Schubert Barer, which will pay out \$14.5 million to end bankrupt rapper 50 Cent's malpractice claim.

Innovative Corporate Counsel: Donald Remy

While most GCs have to deal with their share of litigation, few must do so under such unrelenting public scrutiny as the National Collegiate Athletic Association and its general counsel Donald Remy, whose litigation and transactional successes of the last year have landed him among Law360's 2016 Innovative Corporate Counsel.

Most Compliance Officers Face Compliance 'Crisis': Study

More than half of chief compliance officers globally say their company is undergoing a "crisis of compliance" while a majority say they don't report directly to their company's chief executive, according to a study released on Wednesday.

Nabarro Revenue Up To £57M With Of CMS, Olswang Merger

Nabarro LLP on Thursday announced that its half-year revenue had grown by 2 percent to £57.5 million (\$72.32 million) in the run-up to its three-way merger with CMS and Olswang LLP.

Insurance Spat In Atty's 'Tragic' Affair Nixed By 1st Circ.

The First Circuit on Wednesday ruled that a divorce attorney's homeowner's insurance company didn't have to pay \$500,000 to settle allegations that he'd had a romantic relationship with his client, who later committed suicide.

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