

From: Public Policy Law360 <news-q@law360.com>
To: Adams, ChaneyChaneyAdams@gov.sc.gov
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Subject: Jay Peak EB-5 Case Shines Light On Need For Fund Monitors

PUBLIC POLICY

Friday, April 29, 2016

TOP NEWS

Jay Peak EB-5 Case Shines Light On Need For Fund Monitors

Following the U.S. Securities and Exchange Commission's fraud case involving the Jay Peak ski resort, attorneys who regularly work on EB-5 projects are shifting their focus to fund monitoring and watching for congressional action to ensure integrity in the foreign investor program.

UK Watchdog Issues Guidance On EU Market Abuse Rules

The U.K.'s Financial Conduct Authority on Thursday published guidance on how it plans to implement the European Union's Market Abuse Regulation, which provides new rules designed to deter insider trading and market manipulation, taking into account suggestions from market participants.

DOJ Crime Chief Defends Voluntary Disclosures Program

The U.S. Department of Justice's voluntary disclosures program isn't meant to make companies responsible for criminal investigations, according to the head of the department's criminal division, who maintained Thursday the government wants to reward companies that come forward when they know of potential crimes.

Senate Dems Continue Filibuster On \$37B Spending Bill

Senate Democrats on Thursday refused for the second day in a row to let a \$37.5 billion bill funding federal energy, water development and certain weapons programs for 2017 move forward, amid continued concern over a proposed amendment aimed at the administration's recent nuclear deal with Iran.

NLRB's Hirozawa Tapped For Another Term

President Barack Obama has renominated National Labor Relations Board member Kent Y. Hirozawa to a five-year term expiring in 2021, the White House said in a Thursday statement that unveiled several nominations to other administration posts.

High Court OKs Rule Change Expanding FBI Hacking Powers

The U.S. Supreme Court on Thursday approved a rule change that would allow judges to issue FBI warrants to access computers located outside their districts, despite opposition from critics including Google Inc. that claim it would expand the government's hacking and surveillance powers.

George Mason Faces Faculty Backlash Over Scalia Law School

George Mason University's law school became embroiled in another

LAW FIRMS

Arnstein & Lehr
Boies Schiller
Bredhoff & Kaiser
Cleary Gottlieb
Debevoise & Plimpton
Dickinson Wright
Drinker Biddle
Earthjustice
Faegre Baker
Fox Rothschild
Gibson Dunn
Gladstein Reif
Gordon & Doner
Gunster
Hogan Lovells
Jeffer Mangels
Jones Walker
Kazan McClain
Kelley Kronenberg
Klasko Immigration Law Partner
Kobre & Kim
Kozyak Tropin
McGuireWoods
Patterson Belknap
Pepper Hamilton
Reed Smith
Scheef & Stone
Sedgwick LLP
Shulman Rogers
Skadden
Squire Patton Boggs
Steptoe & Johnson LLP
Venable LLP
Wachtell Lipton

controversy over its name change in honor of the late U.S. Supreme Court Justice Antonin Scalia on Thursday as university professors and a Virginia lawmaker called the decision "polarizing" and "problematic" given the conservative jurist's comments about minority groups.

ANALYSIS

Statute Of Limitations That Protected Hastert Gets Closer Look

A day after former U.S. House Speaker Dennis Hastert was sentenced to 15 months in prison for violating banking laws to cover up allegations he sexually abused boys decades ago, the Illinois attorney general asked legislators to end the statute of limitations that kept him from facing charges for the abuse itself.

BANKING & SECURITIES

House Advances Angel Investors Bill To Boost Startups

The U.S. House of Representatives passed an "angel investors" bill Wednesday that will purportedly help entrepreneurs access capital by easing restrictions on certain investor presentations under Regulation D.

EU Law To Combat Benchmark Rigging Nears Finish Line

The European Parliament passed a law Thursday that aims to make benchmark interest rates such as Libor more reliable and less likely to be manipulated, and that could be signed into law next month.

Payment Card Security Standards Body Updates Rules

The body that sets payment card security standards released updates to its rules Thursday that would require card administrators to use more than just a password to identify themselves when accessing sensitive cardholder data, whether or not they are working remotely.

CFPB To Make Servicers Better Explain Student Loan Options

The Consumer Financial Protection Bureau on Thursday announced a new initiative to make clear to student debt holders what their options for repayment are by having servicers regularly lay out simple, personalized plans.

CFPB Urged To Forbid 'Rip Off' Forced Arbitration Clauses

More than 150 organizations, including the NAACP, Southern Poverty Law Center and Public Citizen, urged the Consumer Financial Protection Bureau on Wednesday to ban mandatory arbitration clauses in consumer financial contracts.

ENERGY & ENVIRONMENTAL

Mexican Wolf Allies Get FWS To Promise A Recovery Plan

The U.S. Fish and Wildlife Service has agreed to make a recovery plan for the Mexican gray wolf, resolving lawsuits brought by the state of Arizona and environmental groups who said the service should have done it decades ago.

Oil Pipeline Spill Case In Wrong Court, Oil Groups Say

Two oil industry groups on Wednesday voiced their support for the U.S. Department of Transportation's argument that the National Wildlife Federation's lawsuit over oil spill response plans for underwater pipelines

Walton Lantaff
White & Case
Winston & Strawn

COMPANIES

AT&T Inc.
Abbott Laboratories
Airbnb Inc.
Amazon.com Inc.
American Bankers Association
American Bar Association
American Civil Liberties Union
American Council of Life Insurer
American Express Company
American Petroleum Institute Inc
Amerisure Mutual Insurance Co.
Apple Inc.
CSX Corporation
CUNA Mutual Group
Carnival Corporation
Carolina Hurricanes
Center for Biological Diversity Inc
Centura Health Inc.
CenturyLink Inc.
Cisco Systems Inc.
Colorado Farm Bureau Mutual
Insurance Co.
Comcast Corporation
Consumer Bankers Association
Dell Inc.
Discover Financial Services
Facebook
Financial Services Roundtable
Ford Motor Company
Frontier Communications
Corporation
Gilead Sciences Inc.
Google Inc.
Grant Thornton LLP
Home Box Office Inc.
Independent Community Banker
of America
Insurance Services Office Inc.
International Association of
Defense Counsel
Law Practice Consultants LLC
Lowe's Companies, Inc.

belongs in the D.C. Circuit, not the Michigan federal court where it currently lies.

Enviros Threaten Suit Over Nitrogen, Sulfur Emission Plans

Environmental groups on Wednesday threatened to sue the U.S. Environmental Protection Agency for blowing a deadline to revise national limits on emissions of nitrogen and sulfur oxides, key components of acid rain, ozone and soot.

Mayors Urge Obama To Speed Up Methane Regulations

Dozens of mayors and county commissioners from across the country have asked President Barack Obama to prod the U.S. Environmental Protection Agency to speed up its effort to reduce methane emissions from existing, new and modified sources in the oil and gas sector.

HEALTH & LIFE SCIENCES

GOP Senator Blocks Vote On \$1.8B Zika Funding

U.S. Senate Minority Leader Harry Reid pled with his colleagues Thursday to unanimously consent to vote on the White House's request for \$1.8 billion to fight the Zika virus, a move blocked by Senate Majority Whip John Cornyn, who demanded a plan.

MEDIA & ENTERTAINMENT

NCAA Adopts Anti-Discrimination Policy For Event Hosting

The NCAA on Wednesday adopted a new anti-discrimination requirement for sites hosting events like the NCAA men's basketball tournament that could prevent North Carolina cities and venues from bidding for such events due to a newly passed law that restricts transgender individuals' access to public restrooms.

TRANSPORTATION & INFRASTRUCTURE

DOT Shakes Up Metro's Board Amid Safety Fiascos

In a shake-up Thursday the U.S. Department of Transportation replaced three members of the Washington Metro's board, the same day a House lawmaker proposed a board overhaul amid growing dissatisfaction with the D.C. transit agency's string of safety lapses.

INSURANCE

House Passes Bill To Boost Private Flood Insurance Market

The U.S. House of Representatives unanimously passed legislation Thursday intended to make it easier for privately underwritten flood insurance policies to satisfy the requirements for mandatory insurance on mortgaged homes in flood-prone areas, intended to open up competition in the flood insurance market.

EMPLOYMENT

Fla. High Court Nixes Workers' Comp Law Atty Fee Formula

The Florida Supreme Court on Thursday struck down the prevailing-party attorneys' fees provision of the state's workers' compensation law, ruling that the mandatory fee structure is an unconstitutional violation of a worker's due

Lyft Inc.

MasterCard Incorporated

Morgan Stanley

Mortgage Bankers Association

Murray Energy Corp.

NFL Enterprises LLC

National Association of Federal Credit Unions Inc.

National Association of Insurance Commissioners

National Basketball Association

National Cable & Telecommunications Association

National Collegiate Athletic Association

National Football League Player Association

National Hockey League

National Wildlife Federation

New England Patriots

New York State Bar Association

New York University

Pennsylvania Bar Association

Philip Morris USA Inc.

Public Knowledge

QUALCOMM Incorporated

R.J. Reynolds Tobacco Co.

Radnor Holdings Corp.

Southern California Gas Co.

Southern Poverty Law Center

St. Jude Medical Inc.

State Bar of Texas

State Farm

Time Warner Cable

Twitter Inc.

Uber Technologies Inc.

Verizon Communications

Visa Inc.

Washington Metropolitan Area Transit Authority

Wilmington Trust Corp.

GOVERNMENT AGENCIES

Army Corps of Engineers

Bureau of Citizenship and Immigration Services

Bureau of Reclamation

Centers for Disease Control and

process rights.

House Votes To Block DOL 'Fiduciary Rule'

The U.S. House of Representatives on Thursday passed a resolution intended to block the U.S. Department of Labor's contentious "fiduciary rule" from going into effect, as Labor Secretary Tom Perez claimed that the department is ready to defend the rule in court if needed.

COMPETITION

2nd Circ. Upholds NY Politician's Corruption Conviction

The Second Circuit on Thursday upheld a former New York City councilman's conviction and sentence for his role in separate alleged corruption schemes, including a plot to bribe GOP leaders to allow a Democratic politician to run for mayor as a Republican, citing sufficient evidence and rejecting statutory arguments.

Longtime UK Expats Lose Bid For Brexit Voting Rights

A U.K. court ruled Thursday that British citizens who have been living abroad for more than 15 years can't vote in an upcoming referendum on whether the country will remain in the European Union, rejecting a suit from a White & Case LLP competition attorney.

Atty In NY Mayor Bribery Scheme Officially Disbarred

An attorney who was convicted on fraud, bribery and witness tampering charges for his role in a scheme to buy a path for New York Republican Malcolm Smith into the mayor's office was disbarred, according to a New York appeals court order Wednesday.

PRIVACY & CONSUMER PROTECTION

CFPB Has Changes In Works For Key Mortgage Rules

The Consumer Financial Protection Bureau's head told several banking and other industry groups Thursday that the regulator would be introducing a proposed rule to address concerns with CFPB mortgage disclosure requirements.

Cuban-Born Travelers Drop Suit After Carnival Axes Ban

Two Cuban-born Americans accusing Carnival Corp. of civil rights violations for barring Cuban-born consumers from its new cruises to the once off-limits country dropped their proposed class action Thursday, citing recent changes in Carnival's booking policy and Cuban law.

GAO Says SEC Still Lagging On Cybersecurity

The Government Accountability Office on Thursday released a report finding that, while the U.S. Securities and Exchange Commission has fixed some flaws in information security, the agency still faces weaknesses that could threaten financial and personal information of companies and investors.

GOVERNMENT CONTRACTS

House Panel OKs \$610B 2017 Defense Authorization Act

The House Armed Services Committee on Thursday approved its proposed \$610.5 billion 2017 National Defense Authorization Act after adopting several amendments, including exemptions to contentious recent labor-related

Prevention

Consumer Financial Protection Bureau

Enterprise Rancheria of Maidu Indians

European Commission

Executive Office of the President

Federal Bureau of Investigation

Federal Communications Commission

Federal Emergency Management Agency

Federal Railroad Administration

Federal Transit Administration

Fish and Wildlife Service

Food and Drug Administration

Government Accountability Office

Internal Revenue Service

National Highway Traffic Safety Administration

National Institutes of Health

National Labor Relations Board

National Transportation Safety Board

New York Attorney General's Office

North Fork Rancheria of Mono Indians

Office of the U.S. Trade Representative

Pipeline and Hazardous Materials Safety Administration

Port of Miami

Rural Utilities Service

Securities and Exchange Commission

U.S. Agency for International Development

U.S. Army

U.S. Attorney's Office

U.S. Commission on Civil Rights

U.S. Department of Agriculture

U.S. Department of Defense

U.S. Department of Education

U.S. Department of Energy

U.S. Department of Health and Human Services

U.S. Department of Justice

executive actions for defense contractors, and rejecting a move to allow undocumented immigrants to serve in the military.

INTERNATIONAL TRADE

US, Sri Lanka Ink Deal To Boost 2-Way Trade

The United States and Sri Lanka on Thursday adopted a joint plan to boost trade and investment between the two countries, according to a release from the Office of the U.S. Trade Representative.

TAX

House Bill Would Sync Passthrough, Corporate Tax Rates

House Ways and Means Committee member Vern Buchanan, R-Fla., on Wednesday introduced a bill that would limit the tax rate on income from passthrough entities, such as sole proprietorships, partnerships, LLCs and S corporations, to the top corporate income tax rate.

EU Top Court Will Consider Germany's Travel Agent VAT Laws

Germany's value-added tax rules for travel agents violate European Union law and have been referred to the continent's highest court for a challenge, the union's policy-setting body said Thursday.

IRS Finalizes Tax Shelter Adviser Reporting Rules

The Internal Revenue Service on Wednesday published final rules on a \$10,000-per-day penalty that can be imposed on professional advisers for failing to follow requirements to maintain a list of investors in tax shelters and to make the list available to the agency upon request.

IMMIGRATION

USCIS Seeks Input As It Weighs EB-5 Regulatory Updates

U.S. Citizenship and Immigration Services said Wednesday that it's mulling possible "regulatory and policy changes" regarding the EB-5 immigrant investor program, and asked stakeholders to weigh in on minimum investment amounts and the process by which regional centers are designated.

NATIVE AMERICAN

Cooperation A Must For Tribal Internet Expansion, Sens. Told

A U.S. Government Accountability Office official told the Senate Committee on Indian Affairs Wednesday that better coordination between government agencies is needed to increase high-speed internet access in Indian Country.

Bill Would Require IGRA To Respect Calif. Voter Initiatives

A group of California lawmakers on Wednesday introduced a bill amending the Indian Gaming Regulatory Act to require that the process for approving off-reservation gaming in California adheres to state law, responding to federal court decisions surrounding the ratifications of gaming compacts.

TELECOMMUNICATIONS

FCC Advances Plan For New Business Data Regs Regime

The Federal Communications Commission on Thursday moved forward with a controversial new proposal for rules for the business data services market,

U.S. Department of Labor
U.S. Department of State
U.S. Department of Transportation
U.S. Department of the Interior
U.S. Department of the Treasury
U.S. Environmental Protection Agency
U.S. General Services Administration
U.S. House of Representatives
U.S. Navy
U.S. Senate
U.S. Supreme Court
United Nations

asking for feedback on how to determine whether markets are competitive and how to apply pricing and other regulations if they aren't.

[Dozens Of Mayors Rally Behind FCC Lifeline Expansion](#)

The mayors of more than three dozen cities, including New York's Bill de Blasio, Los Angeles' Eric Garcetti and San Antonio's Ivy R. Taylor, backed the Federal Communications Commission's expansion of Lifeline to include broadband, praising the move Thursday as a 21st century update.

[Comcast, Roku Prove FCC Can Unlock Set-Top Box: Wheeler](#)

Federal Communications Chairman Tom Wheeler said Thursday that a plan by Comcast to let its subscribers access cable programming on a Samsung smart TV or Roku player proves the feasibility of his set-top box proposal but does not mean that industry will make programming available on a widespread basis without regulatory action.

[Researchers Ask FCC, Congress To Reform TV Age Ratings](#)

Parents cannot rely on the current system of maturity ratings for television programming because of its wild inconsistency, a group of researchers told the Federal Communications Commission and congressional leaders this week, asking for hearings to discuss methods to make the system more useful.

[Google, NCTA Urge Obama To Open Auto Wireless Spectrum](#)

Google, the National Cable and Telecommunications Association and several other groups urged President Barack Obama Thursday to open up spectrum currently reserved for auto safety initiatives for Wi-Fi uses, saying the 5.9 GHz band would be a perfect way to address the "dangerously congested" wireless space.

PENNSYLVANIA

[Pa. AG Wants Charges Axed Based on Vindictive Prosecution](#)

Pennsylvania's embattled attorney general urged a state judge on Wednesday to toss the criminal charges she was saddled with on grounds that she'd been selectively investigated for allegedly helping to leak investigative material to the press.

EXPERT ANALYSIS

[Brokaw Act Could Broaden Change-Of-Control Triggers](#)

The recently introduced "Brokaw Act" proposes changes to the rules governing the reporting of ownership in U.S. public companies and would expand the definition of "beneficial owner." But as the definition of ownership expands, the definition of change of control in many indentures may expand as well — sometimes in ways the drafters may not have anticipated, say Laurent Alpert and Robert Gruszecki of Cleary Gottlieb Steen & Hamilton LLP.

[Developments At The NAIC Spring Meeting: Part 1](#)

This three-part series from attorneys at Debevoise & Plimpton LLP highlights some of the developments from the National Association of Insurance Commissioners' spring meeting that are of particular interest to the insurance industry. In this part, we take a look at life insurer, property/casualty insurer, captive reinsurance and cybersecurity developments.

Using The New Federal Rules To Rein In Discovery

The 2015 amendments to the Federal Rules of Civil Procedure present a fertile opportunity for defendants to leverage the rules' renewed focus on reasonableness and proportionality to rein in rampant discovery abuse. Courts' application of the amended rules has already shown promise in this regard, say Martin Healy and Joseph Fanning of Sedgwick LLP.

Louisiana Joins Debate Over Online Remote Seller Sales Tax

Louisiana recently entered the conversation on taxation of out-of-state online retail sales by passing new remote seller legislation, but a question remains as to the ultimate effect this law will have on the state's budget issues and the overall movement nationwide to statutorily (or administratively) expand the sales tax nexus, say attorneys with Jones Walker LLP.

LEGAL INDUSTRY

4 Ways You're Wasting Your Co-Workers' Time

The sound of a new text or the temptations of cruising Facebook or finally beating "Angry Birds" can distract the best of attorneys. But a more fundamental culprit for what consumes lawyers' precious time may be sitting nearby: their colleagues. Here, legal industry experts discuss common ways attorneys waste each other's time and how they can do better.

Squire 'Disappointed' Ex-Atty Says She Suffered Gender Bias

Squire Patton Boggs LLP said Thursday that it was "disappointed" a former international arbitration associate took to the social news website Reddit to say that she was a victim of gender discrimination at the firm and that she felt like she was "worth less as a lawyer" after having a baby.

3 Cost-Effective Cybersecurity Tips For Firms Big And Small

Hackers and cybercriminals see all lawyers, not just the deepest-pocketed global law firms, as targets — a lesson one Texas solo learned when an attack on his firm sent malware to thousands — but experts say there are simple, cost-effective steps any firm can take to protect its reputation and data. Here, experts share ways all attorneys can shore up their online security.

Law360's Weekly Verdict: Legal Lions & Lambs

Some lawyers were predators this week and others were prey, with a group of plaintiffs attorneys topping the food chain by securing a \$34 million jury verdict against R.J. Reynolds and Philip Morris, while Gibson Dunn and Winston & Strawn LLP were fed to the NFL for dinner when the Second Circuit reinstated New England Patriots quarterback Tom Brady's four-game suspension.

Nonlawyer Firm Ownership Lacks Traction Despite New Look

The American Bar Association has again waded into politically turbulent waters with a new look at loosening rules against firm ownership by nonlawyers, an effort critics said won't achieve the bar's stated goal of improving access to the legal system even if it can overcome strong opposition.

Obama Picks 8 For Federal Bench Positions

President Barack Obama on Thursday nominated four judges, a law professor, partners from Hogan Lovells and Jung & Sisco PA, and a member of the U.S. Commission on Civil Rights to federal judgeships in Florida, the

District of Columbia, Colorado, North Carolina and Nevada.

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