
**Regulatory Oversight – S01 Ep11, A Look Ahead to the 2022 State AG Elections
From DAGA President Sean Rankin****Recorded September 2022****Ashley Taylor:**

Welcome to another episode of Regulatory Oversight, a podcast that focuses on providing expert perspectives on trends that drive regulatory enforcement activity. This podcast features insights from members of the firm's regulatory investigations, strategy, and enforcement practice group, including a nationally ranked state attorneys general practice, as well as guest commentary from business leaders, regulatory experts, and current and former government officials on a range of topics impacting businesses operating in highly regulated areas. I'm Ashley Taylor, one of the hosts of the podcast and a partner at Troutman Pepper.

Before we get started today, I want to remind all of our listeners to visit and subscribe to our blog at regulatoryoversight.com so you can stay up to date on developments and changes in the regulatory landscape. Today, I am joined by Democratic Attorneys General Association President Sean Rankin. Sean was hired in 2016 by the Democratic Attorney General Association as their first full-time executive director. Since then, he has been promoted to president of the organization and works with his staff to cover campaigns, recruiting, data analysis, communications, policy, politics, and fundraising for the Democratic Attorneys General.

John, we are grateful to have you here today. I know this is a busy time of year for you and your staff and I appreciate the time.

Sean Rankin:

Ashley, thank you. It's a real pleasure to be on, and I look forward to our conversation today.

Ashley Taylor:

Sean, I look forward to talking with you about particular races, but it may help our listeners for you to give some context first. Taking a step back, would you talk about what a modern attorney general looks like and how those races are now run?

Sean Rankin:

I think I would start out by saying that this is not an easy office to understand, and it does require a measure of expertise or guidance in dealing with attorneys general. One of the things that we often find is that even those who are astute at politics sometimes don't have the background. Because it's a complicated office, they really don't know where to get started with reaching out or truly understanding the powers that the Office of Attorney General has, which you know having been in an AG's office. Not everything is quite so written out in the way it might be in terms of powers for a member of the House of Representatives or even for a governor.

So much of what we actually see with AGs is powers that are granted by their constitutions, powers that are given to them legislatively, but also powers that are drawn from court cases that allow them to go in and take actions based upon something that might be happening. That

could be on the criminal side. It could be on the consumer protection side. But truly this is a very wide ranging office in terms of its powers and that makes it a little more challenging for people to understand and, again, a reason why it's important to have good guidance in dealing with AGs and stepping into the space, whether it's for a regulatory issue or whether it's to engage in political activities.

Now in the going on seven years that I've been in this role, I've considered to see this evolution in the Office of Attorney General. I do know historically that it tended to be more insular, although there were multi-state actions. But I think there have been a number of seat changes along the way where multi-states have brought AGs forward and together, whether working collectively as a group across both sides of the aisle, or in fact, it leans one way versus the other. You do see AGs playing a much greater role in the national political landscape, as well as filling in the gaps now that we've seen Congress for so long in gridlock.

If the federal governments and the federal agencies can't give you the right guidance because of disagreements at the federal level, it is falling to state AGs to play this much greater role of decision maker about what should be happening in their states, plus they're coordinating with each other to set up de facto national standards. You have competing standards or differing standards based upon party alignment, but also just big state versus small states. Again, as I said, it's a complicated landscape from a regulatory standpoint and a political standpoint, and it just requires something quite different when you lay down with AGs.

Ashley Taylor:

Sean, you mentioned de facto national standards. We have seen that and heard a number of clients commenting on that fact. That could be an entirely separate podcast where we could talk about that. Maybe we should do that, but I appreciate that for some context before we jump into each state. I would sum up what you said about the history of the office and the unique nature of the office. I wanted to agree with the statement that it's a unique office, at least from my perspective, because it operates at the intersection of politics, policy, and the law. No other office, governor or senator, does that and that unique mix.

Sean Rankin:

Very much so. I also think that the AG engages in the executive branch, the judicial branch, and the legislative branch. There isn't another office that has this level of engagement across the board. And not solely in a checks and balances standpoint, but within each of those three areas. I agree with you and I think that's what makes it so interesting and, in fact, fascinating.

Ashley Taylor:

Let's jump into some of these races. Sean, I have selected approximately 12, maybe more if we have time, but certainly we want to get into these core 12 races that our clients have identified to us as races, rather, that they are watching closely and that they would like to hear an expert talk about. Let's start with Idaho, an open seat.

Sean Rankin:

Open seat in Idaho.

Ashley Taylor:

Yes. Yes.

Sean Rankin:

I'm going to talk about this from more from the political perspective, and I think this is a state which is difficult for Democrats. But I think one of the challenges, one of the things truly from afar is that the sitting Republican Attorneys General decided to support challengers to Republican Attorney General and actually help to move that person out of office. That is a really extraordinary event and I think it's indicative of a change in... I'm going to push this the other side, to the Republican side, moving too far out of the middle. I come from Kentucky.

I have a lot of family members who are Republicans, as well as Democrats, but they're not finding that they have a lot in common these days with they're saying nationally. They tend to be a little more fiscally conservative. They may be somewhat socially conservative, somewhere in the middle, but I think there's less room for what we call centrist Republicans these days. And I think that's what we saw in Idaho. It's still a challenging state for us, but I do feel like this shift that occurred was actually a little bit hard to watch, even from the spectrum of being on the other side of the aisle as to how it was done. In some ways, I found it disappointing.

Ashley Taylor:

Let's move to another state that I think our listeners would say is usually not a state that you would discuss in the context of an open race that is competitive, and that's Kansas.

Sean Rankin:

Kansas.

Ashley Taylor:

Yes.

Sean Rankin:

Kansas is pretty exciting and we've now got two polls, one public, which show the race at two points. I think that the dynamics in the race are part of what's driving the competitive nature of it. Chris Mann is the Democratic nominee. Chris is a former police officer who was injured in line of duty. He has been active in issues related to drunk driving and making sure we're taking drunk drivers off the road. He's someone who really believes that he can go make a difference and serve, and he's done that his entire career. I think he's very attractive to the people in Kansas.

As we saw with the primary, Kris Kobach on the other side came out of the Republican primary, a little bit of a challenging personality. He's lost twice running statewide. We saw the first real pushback after the Dobbs decision and now we're seeing an electorate, which is changing. They feel rather strongly about government of any type acting on them, but they're actually watching the Rs push back harder and limiting their rights. As you would find with those folks in the Plains or out in the Rockies, there is a measure of independence and it's a back off, take your hands off me approach.

I think we're really seeing that. I think Kobach has doubled down. I think Chris Mann is a real alternative that gives Kansans someone to look, to play the role that they would like to see in their chief law enforcement officer, their chief legal officer. I think we're see a contest that goes all the way down the stretch.

Ashley Taylor:

I want to over to the Hawkeye State, Iowa, where General Miller is running again, but I'd like you to talk about that race and to talk about, as you were just hinting at, the importance of candidates fitting the state.

Sean Rankin:

This is a really interesting one because Iowa has continued to change over time, but AG Miller has been elected 10 times. He's been elected when the state has been blue, purple, and red. As the state has changed, one of the dynamics behind the scenes that you would notice is those who are unaffiliated voters have been the largest growing base of voters. What you really find is a group of people who are not happy with either party. We'll put it that way. The question is, who takes care of them? Now, in a previous poll, we saw that 68% of Iowans think Tom Miller puts Iowa first. We see his approvals in the low sixties.

We've got recent numbers on him that show him with a good lead and he's got to keep pushing. We've got to keep pushing. But I think he stands out as someone who works on consumer issues, who has always taken the weight of the small farmer on his back. He wants to make sure that things are done right. There are times when he stands against his own party. There are times when he stands against the other party. I think he has a history of trying to do what's best for Iowa and I think Iowa and Iowans tend to reward him by sending him back into that office over and over again. He's now the longest serving attorney general in history.

I don't think that on a given day he represents Washington or for, frankly, Washington Democrats. I think he's just Tom Miller. I think Tom looks out for the folks in Iowa and he will continue to do that.

Ashley Taylor:

I want to come back at some point in our conversation to the issue of consumer protection that you mentioned. At first, I want to hear your thoughts on Wisconsin.

Sean Rankin:

Tough race. This is a state which has trended red. It deals a little bit more like Ohio some days to say Colorado, but it's a close state. As we've seen in elections there over the past decade, it'll come down to small margins. In 2018, Attorney General Josh Kaul won by 17,000 votes. We expect that it's going to be another close race. We see up and down the ticket that there is real movement. Both sides have energized and it's a fight. Of all of our states where we know it's going to be close, and this is certainly a dog fight.

We expect to see both sides lean in pretty hard and push. Again, the state resembles some that have trended a little bit more red of late, but we still won it with that trend in 2018 and we're ready to roll up our sleeves and handle this one.

Ashley Taylor:

Let me turn to another hotly contested state, as you mentioned, Nevada. I've seen the polls relative to folks at the top of the ticket. I haven't seen or been able to watch much public discussion or national discussion about the AGs race. What's going on at the AG level?

Sean Rankin:

This is a close state too. We won this state by 4,500 votes in the last election. We see after the Dobbs decision a shift. We've seen the numbers move in the right direction for us. We're seeing that we're running strong now. Attorney General Aaron Ford has done a fantastic job. I'm going to focus on the candidate aspects here. He's done a fantastic job raising almost \$4 million and maybe even over \$4 million. His opponent has very little cash on hand. All those need to understand that when it comes to buying media, that the cost of points for TV or digital is less expensive for a candidate than independent expenditure.

My friends on the other side at RAGA are going to go and bust in this state and push, so am I. We're going to go spend roughly about the same, but that's a wash. But when it comes to our candidate who's spending a considerable amount because he's done the work, he's raised the real money, it makes a huge difference when you've got those dollars at hand. This one also feels pretty personal. What we saw in 2018, what we heard in 2018 were a lot of dog whistles. In this case, the Republican opponent, Sigal Chattah, has said she thinks that this man, who happens to be black, should be hanging from a crane.

This is not what I would call our usual race. This is personal. This is something that is well over the line, which should not be accepted. I think she disqualifies herself based upon what she actually says. If we actually follow her words, we will get pretty quickly to a place where this is not someone who should be making decisions about the law because she doesn't actually respect the law. I don't know that if she ever elected, she would follow the law. She is a risk for businesses.

She is a risk for people. She should not be in this office. We are going to do everything humanly possible with our candidate, sitting Attorney General Aaron Ford, to win this race and make sure that he is back in there for a second term.

Ashley Taylor:

I want to turn to Minnesota. First, want to know that the current office holder, General Ellison, was a former member of Congress, which goes to your point and the beginning of this podcast about the influence of the office. I think a lot of folks may be surprised to hear that someone went from Congress to the Attorney Generals post. Talk about that, if you would, and then talk about General Ellison.

Sean Rankin:

Sure. AG Ellison was the second person since I've been in my post at DAGA to be a member of Congress who's run for AG. The first one was Xavier Becerra, who was put into fill an appointment after Kamala Harris was elevated, ran for reelection and was reelected. And now we have Congressman Anthony Brown and Mary Owens, who is now the third in the chain. But we actually have conversations regularly with current members and former members who look at this office and say, "The ability to go execute and act and push something forward is

considerable and meaningful." And after the gridlock in Congress, we see members of Congress who see an opportunity to really go make a difference.

It is drawing people in from other places by way of Minnesota. Minnesota's an interesting state and that you really do have three distinct groups, Independents, Democrats, which is Democratic-Farmer-Labor Party, and Republicans in the state. It's a state which will elect an independent for governor or somewhere else in constitutional offices. It makes it different. You have to actually be willing to go out and stretch yourself. I find Minnesota one of the more interesting states in the country politically. AG Ellison has been doing an outstanding job. He has been leading on a number of issues and some of the more challenging issues.

If it weren't for AG Ellison, right person, right time, right challenge, and I'm talking about the murder of George Floyd, would we have seen someone who took this case and said, "How do I actually find some measure of accountability for a family for something that should not have happened?" I think that goes to who Keith is. I believe he tries to do the right thing by everybody based upon the circumstances of a given situation or what he's trying to do. He's certainly from his time in Congress and other national work he's done, he happens to be better known than some of our other attorneys general.

But when you actually sit down with Keith, I think you find someone who's very down to earth. He wants to listen. He wants to do it right by people, and he wants to make sure that you have a chance to talk about what might be most important to you. I find him to be very open and willing to have those types of conversations. Again, I think it has to do with the temperament of an attorney general. We need people who are willing to have conversations. The issues in front of AGs can be, as we've said a number of times, complicated. Complexity is not something that if it was simple, it gets solved by somebody else.

Things that are more complex end up on an AG's plate and they have to deal with them. I think in that way, you want someone who's going to sit and listen and talk and draw out what needs to be understood, so that in the end it's about being the people's lawyer. How are you actually addressing this? How are you creating a level playing field? How do you actually make sure that the bad actors are addressed? But I think no matter what it is, it's about fairness, and I think Keith does an excellent job of trying to create room for conversation.

Ashley Taylor:

Let's stick with the from Congress to the AGs chair theme and talk about Maryland.

Sean Rankin:

This is a blue state. We do not expect a surprise here. We're excited about Congressman Brown joining us in the room sub to that November election, but we do feel fairly strongly that he actually is going to be coming in. I think he's got, as I described with the Sarah and Ellison, I think he will have the opportunity to lead in a way that he hasn't before with a different office. Of course, he was lieutenant governor. He had run for governors, so he has a strong handle on state politics. But I think this role being what it is, gives him an opportunity to lean into issues in a way he hasn't before. He also seems energized by what we're about to see.

I think he will be an outstanding attorney general. I hope people will take the chance to get to know him. But right now we're still on the campaign trail, which in fact makes it a little bit easier. I encourage people to go out and see him when he's at his events, when he's moving

from point to point in the state, because you're going to catch him before he's actually got the work of the AGs office on his shoulders. It's a good time to go build a relationship with the soon to be Attorney General of Maryland.

Ashley Taylor:

Our listeners can't see this because we don't have video, but I'm smiling when Sean mentioned actually doing the work of an attorney general. Folks, there's an aspect of politics to the office, but there's an office to run in every state as well. You're the chief legal officer for your state and you have hundreds of lawyers reporting to you. There's an entire office you need to run. You're right. It's different once you're sworn in. You're right to encourage people to talk to folks with their candidates, because after the election, they have an office to run. Lots of people forget that. Let's talk about an open seat, New Mexico.

Sean Rankin:

Now, New Mexico has traditionally been a purple state. It's leaned blue for a while. Now, that doesn't mean every office. I think that the governor's race is a little tighter, but we're showing a double digit lead in New Mexico. I don't expect anything to change. I expect Ronald Torres to be the next attorney general for the state of New Mexico. I find his temperament to be easy to talk to, easy with a smile, comes quick with a laugh, but can get very serious fast, but truly approachable. New Mexico is an issue that has challenges that are a little different than many other states when we talk about some of our big states.

But when you start talking about the West, especially a state like New Mexico, you've got a lot of oil and gas revenues which fuel state legislative actions and cover the cost of education, cover other things that need to happen in the state, really provide for investment. You also have issues in water. We don't talk as much these days about acequias and where things need to be in states like New Mexico or Arizona or others, but we do have drought conditions in a lot of states. There are questions about who has the water rights.

I think for business and for citizens of the state, we need to be leaning back into this because I think we need to come off with a better system because we're seeing that there are challenges today, tomorrow, and down the road. I think we would all agree that the climate is changing. People may disagree on why it is. Regardless of the point of how we got here, we're here and we have natural resources which are required for us. I think that whether it's for business purposes or whether it's for household need and use, we need someone who's thoughtful like Raúl Torrez to be at the front of those issues, as well as all those we would otherwise know about when it comes to an AG.

Ashley Taylor:

Let's talk about a state in the Northeast, Connecticut. Folks may hear Northeast and presume that one party dominates, but Connecticut and Massachusetts have, I think, historically you would agree, gone back and forth in various offices. Talk about what's happening at the AG level.

Sean Rankin:

Sure. Both of those states are sometimes likely to lead to a or have a surprise. I don't expect that this year. William Tong is the attorney general in Connecticut. We're seeing that he's running a solid campaign. Now, there are public funding grant for supporting elections there. He's qualified and he has continued to spend accordingly. His opponent has not gotten her funds and is not spending as need be. That might change. But I think it just shows he's been very organized, structured, and thoughtful in his approach as attorney general. From a campaign perspective, his team has been doing what they need to do. I don't expect a surprise and I expect AG Tong to be reelected.

Ashley Taylor:

The final state on my list is Massachusetts. I'd like you to talk about both the primary and what you expect to see in the general.

Sean Rankin:

I think what we saw on the primary, which was won by Andrea Campbell, was a spirited primary. We had three candidates in. We certainly saw elected officials at the federal level and the state level splitting between the two. It was a tough race. One of the candidates, so funded largely, which drove a lot of the movement among voters, because if you can communicate effectively, you can actually start to move people as your message gets through. But Andrea won. She had the support of Maura Healey, our current attorney general, who's now running for governor. I expect a smooth election in November for both AG Healy, who's moving on, as well as Andrea Campbell moving in.

I'll make this point because I think it's really important. Maura is also an example of AGs moving to another office. We are the bench of the party. In the past six and a half years in particular, we've taken ownership of that. When you talk about an Andy Beshear in Kentucky or a Janet Mills in Maine, you have Josh Shapiro right now at Pennsylvania moving forward. We've got three members in the United States Senate. We did have as many as six, but Tom Udall is now an ambassador. Kamala Harris is now vice president. We do see people continue to move forward, but we also are seeing that we've got nine members in the administration, so former Democratic AGs who are in positions of leadership.

We know we need to do in order to invest in our Democratic candidates. Our candidates, once they win, they become incumbents. It's our job to help them along. I think that the grounding in the Office of Attorney General makes a huge difference in the work they do later. One of the things that I hear from all of them, even after they've moved to different offices, this was the one they loved best. This was the one where they felt like they could make the biggest difference and had opportunity to do that, although people didn't always see what they were doing and people didn't understand the office.

Sometimes you don't see that invisible hand of the AG making things work behind the scenes. But it's my opinion that this is the linchpin of state government. When the federal government is working well, it falls back to state government and it falls back invariably to state AGs to make the difference. And that gets us back to these de facto national standards and things that gets set up because they play a role with each other. Again, they lean into the executive

branch. They lean into the legislative branch. They lean into the judicial, and they can make things happen, which other offices just can't, other officeholders.

I think it's pretty fascinating. Again, I've done this seven years. I think I've got the coolest job in politics. It's just that a lot of people don't know enough about AGs to recognize how much of a difference playing this role with them, helping a Maura Healy to move forward, helping a Josh Shapiro to move forward, or Andy Beshear, and then seeing what they come, because AGs become governors and senators and we know what those people become.

Ashley Taylor:

Sean, I think a lot of folks in our audience are coming to realize exactly what you just said, the important role that state AGs play and the important role that states play in consumer protection and other things that impact individual's lives every day. I want to thank you for joining us today, and I know our listeners enjoyed your valuable insights. I want to thank our audience for tuning in today, and please make sure to subscribe to this podcast via Apple Podcast, Google Play, Stitcher, or whatever platform you use. We look forward to the next podcast and perhaps asking Sean to come back and talk to us after the election. I'd love that.

Sean Rankin:

My pleasure to talk about politics with you.

Ashley Taylor:

Thank you.

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