



## Regulatory Compliance and Government Litigation

The majority of laws governing businesses today are not made in Washington, D.C., but rather in the fifty state capitals and in municipal administration buildings and city halls all across the country. The Regulatory Compliance and Government Litigation Practice Group helps both corporate and government clients navigate a wide range of legal and public policy matters, including litigation and administrative appeals; land use and zoning; telecommunications; health care and insurance regulation; government procurement and contracting; licensing and permitting; legislative strategy; regulatory rulemaking; open records; state and local taxation; and government ethics and political campaign finance law. The Practice Group has represented clients in some of the most critical public policy debates affecting business and government today and is widely recognized for its expertise.

This experience allows the Regulatory Compliance and Government Litigation Practice Group to represent clients successfully in a wide spectrum of government matters:

- State Attorneys General Investigations & Litigation
- Litigation and Administrative Appeals
- Land Use and Zoning
- Telecommunications
- Health Care and Insurance Regulation
- Government Procurement and Contracting
- Licensing and Permitting
- Legislative Strategy and Representation
- Regulatory Rulemaking
- Open Records
- State and Local Taxation
- Election and Political Campaign Finance Law



## **State Attorneys General Investigations & Litigation**

The Troutman Sanders' State Attorneys General team has extensive experience in representing clients in single-state and multi-state Attorney General investigations. Our State Attorneys General team is designed to be proactive and anticipate issues before they result in regulatory disputes or actual litigation. Nonetheless, where that is not practical or advisable, we have formidable experience litigating these matters. Because of the unique nature of this practice, the Group's attorneys are well-known and held in high regard by the Attorney General offices.

We are uniquely positioned to assist our clients in their effort to closely monitor the regulatory and enforcement trends of state Attorneys General. We have experience with state Attorney General offices nationwide at both the office-holder and staff level, a combination that we believe is essential for providing our clients with effective representation.

In the past, we have worked with several companies in developing a strong state Attorneys General strategy. In such cases, we have found that it is critically important to have an approach in place that fully integrates the legal and government relations divisions of a company in order to effectively anticipate and respond to regulatory challenges.

## **Charles P. Greenman & Karen F. Lederer Selected Representations before Consumer Regulatory Bodies**

### **FTC Investigations**

Represented a telemarketer in an investigation into compliance with "Do Not Call."

Represented an accounting firm in litigation involving an alleged internet scam.

Represented a credit card issuer in an investigation of negative option plan.

Represented a national retailer in an investigation of pricing practices, celebrity endorsements and health claims.

Represented banks, national retailers and the provider in an investigation of credit card protection services.

Represented a juice bottler/distributor in an industry-wide investigation of labeling of "juice drinks."

Represented a national retailer in an investigation of "custom made" claims.

Represented a company selling home water purification systems in litigation involving its sales practices.

Represented a home security company in an investigation of its product claims.



## State Attorney General Investigations

<b>Arizona</b>	Counseled a dating service in connection with an unfair and deceptive trade practices investigation.
<b>Arkansas</b>	Represented a bedding retailer in an investigation of various consumer credit practices
<b>California</b>	<p>Represented an equipment leasing company in a fraud investigation.</p> <p>Represented a snack food manufacturer in an investigation of nutrition labeling under the Nutrition Labeling and Education Act.</p> <p>Counseled a personal emergency response system provider in connection with an investigation of alleged unfair and deceptive trade practices.</p> <p>Counseled a dating service in connection with an unfair and deceptive trade practices investigation.</p>
<b>Connecticut</b>	<p>Represented an equipment leasing company in a fraud investigation.</p> <p>Represented a furniture retailer in litigation challenging retailer's compliance with mandatory cooling off period.</p> <p>Represented a snack food manufacturer in an investigation of nutrition labeling under the Nutrition Labeling and Education Act and health claims made for botanical ingredients.</p> <p>Represented a visiting nurse service in an investigation of alleged improper Medicaid payments.</p> <p>Represented a furniture retailer in litigation challenging its liquidated damages provision.</p>
<b>Florida</b>	<p>Represented a bedding retailer in a series of investigations of alleged unfair and deceptive trade practices.</p> <p>Represented a telemarketer in an investigation into compliance with "Do Not Call."</p> <p>Represented an ice cream manufacturer in a short weight investigation.</p> <p>Represented a manufacturer of home siding products in an investigation of its warranty practices.</p> <p>Represented a home health care agency in an investigation of alleged improper Medicaid payments.</p> <p>Represented a credit card protection provider in an investigation of its selling practices.</p>



<b>Iowa</b>	Represented a furniture manufacturer/direct seller in litigation challenging its liquidated damages provision.
<b>Massachusetts</b>	Represented a chain of business schools in a wide-ranging investigation of alleged unfair and deceptive trade practices.  Represented a bedding retailer in litigation alleging unfair and deceptive trade practices.  Counseled a dating service in connection with an unfair and deceptive trade practices investigation.
<b>Missouri</b>	Represented an equipment leasing company in a fraud investigation.
<b>New Jersey</b>	Represented a discount department store chain in an administrative proceeding challenging its advertising and selling practices.  Represented a health club chain in an investigation of its marketing, promotions, and cancellation policy.  Represented a home health care agency in an investigation of alleged improper Medicaid payments.  Represented a home accessories retailer in an investigation of alleged fictitious "sale" claims.
<b>New York</b>	Represented a publicly traded insurance firm in a Martin Act investigation by the NYAG into the conduct of officers and directors.  Represented a sub-prime lender in an investigation of its lending practices.  Represented a licensed lender in Truth-in-Lending litigation challenging its calculation of finance charges.  Represented a credit card protection provider in an investigation of its selling practices.  Represented an electronics store chain in an investigation of its gift card practices.  Represented a discount department store chain in several investigations of its price advertising and its "rain check" policy.  Represented two home health care agencies in separate investigations of alleged improper Medicaid payments.  Represented a bedding retailer in litigation alleging various unfair and deceptive trade practices.  Represented a food manufacturer in an investigation of its product claims.



Represented a food distributor in an investigation of its product claims.

Represented a manufacturer of handicrafts kits in an investigation of its product claims.

Represented a clothing store chain in an investigation of its sweepstakes signage.

Represented a meat store chain in Truth-in-Lending litigation challenging its advertising of credit terms.

Represented an equipment leasing company in a fraud investigation.

Represented a sales finance company in litigation alleging "hidden" finance charges.

**North Carolina**

Represented a retailer in an investigation of its liquidated damages provision.

**Ohio**

Represented a bedding distributor in litigation challenging the selling practices of the Ohio retailer.

**Oregon**

Represented a bedding retailer in an investigation of its consumer credit practices.

**Pennsylvania**

Represented a bedding retailer in a series of unfair and deceptive trade practices investigations.

Represented a furniture retailer in a series of unfair and deceptive trade practices investigations.

**Rhode Island**

Represented a bedding distributor in an investigation of its sweepstakes promotions.

**Texas**

Represented a bedding retailer in an investigation of its consumer credit practices.

Represented a bedding retailer in an investigation of its use of English language contracts with Spanish-speaking consumers.

Represented an equipment leasing company in a fraud investigation.

Counseled a dating service in connection with an unfair and deceptive trade practices investigation.

**Vermont**

Represented a bedding distributor in an investigation of its price comparison advertisements.

**Virginia**

Represented a personal emergency response system provider in an investigation of alleged improper Medicaid payments.

**Washington**

Represented a bedding retailer in an investigation of its consumer credit practices.



**West Virginia** Represented a furniture distributor in an investigation of the practices of the West Virginia retailer and the creditor.

**Wisconsin** Represented a furniture manufacturer/direct seller in an investigation of its “custom made” claims.

### **New York City Department of Consumer Affairs**

Represented numerous retailers in investigations of gift card sales.

Represented several debt collection agencies in an industry-wide investigation of debt collection practices.

Represented an international bus transportation company in administrative proceedings stemming from alleged violations of New York City’s sightseeing bus licensing law.

Represented a national retail chain in various investigations of its advertising of rebates on sales of computers, its “price matching” policy, its “no interest” advertising, and its refund policy.

Represented a national catalogue seller in an investigation of alleged “redlining” in the setting of prices.

Represented a national party goods retailer in an administrative proceeding alleging sales of toy guns in violation of New York City’s toy gun laws and an investigation of bait and switch advertising.

Represented a regional department store chain in various investigations of the store's policy regarding inspections of customers' bags, sales of nontaxable items, and compliance with item and unit pricing laws.

Represented a licensed ticket broker in an administrative proceeding challenging fees charged.

Represented a theatre chain in an investigation of ticket surcharges.

Represented several regional bed retailers in an investigation of price advertising.

Represented an advertising agency in an investigation of vacation package advertisements.

Represented a media buying service in an investigation of product claims made by its clients.

Represented a local furniture retailer in an investigation of pictorial representations of its products.

Represented numerous local retailers in investigations of price advertising, bait and switch advertising, merchandise availability and a host of other issues.

Represented numerous types of licensees in license revocation hearings.

### **Better Business Bureaus**

Worked with the local Better Business Bureaus in Southeast Florida, Philadelphia and New York City to address consumer complaints and resolve issues affecting the client's BBB rating.



## State Attorneys General and the New Consumer Financial Protection Bureau

Historically, State attorneys general have played a central role in protecting consumers from financial harm. In July of 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act (the “Act”) was signed into law. While preserving the consumer protection role of the State attorneys general, the Act created a Consumer Financial Protection Bureau (the “Bureau”), which focuses on similar goals. This memorandum focuses on the interaction between the State attorneys general and the new Bureau.

### The Role of State Law and State Attorneys General under the Act

- **Preservation of State laws.** The Act preserves all state laws that are not inconsistent with Federal law. Pub. L. No. 111-203, 124 Stat. 1376, § 1041(a) (July 21, 2010). State laws are only preempted if they discriminate against national banks, conflict with national bank powers, or are preempted by some other federal statute. Id. § 1044. State laws that are more stringent than their federal counterparts are not preempted. Id. § 1041(a).
- **Enforcement of Federal regulations.** With respect to nationally chartered financial institutions, the Act also allows the attorney general of any State to enforce the Federal consumer financial protection regulations promulgated under Title X of the Act, with the same tools and remedies available to the Bureau. Id. § 1042(a). When acting under this authority, State attorneys general must provide notice to the Bureau and communicate to the Bureau any need for coordination of enforcement. Id. at § 1042(b)(1). The Bureau may intervene in any such action, may remove the action to Federal court, and may appeal any decision. Id. § 1042(b)(2).

### Communication and Coordination between State Attorneys General and the Bureau

- **Rulemaking.** State attorneys general can play a role in the Bureau’s rulemaking by (i) compelling the Bureau to engage in rulemaking, id. § 1041 (when a majority of States enact a resolution in support of establishment or modification of consumer protection regulation, the Bureau must issue a notice of proposed rulemaking); (ii) petitioning the Bureau to engage in rulemaking, id. § 1041(c)(4); and (iii) commenting on proposed rules.
- **Enforcement.** A multistate working group of the National Association of Attorneys General currently is developing principles to ensure that duplication of enforcement efforts and confusion are kept to a minimum.
- **Data and Information Sharing.** Under the Act, the Bureau must establish a nationwide hotline and website for consumer complaints regarding financial products and services. Id. § 1013(b)(3). The Bureau also must share this information with Federal and State regulators. Id. States will have to develop the capabilities to



receive and process the complaint information and also will need to determine whether and how to share their own information with the Bureau.

## Conclusion

A close relationship already is developing between the State attorneys general and the Bureau – as well as between the Bureau and other government agencies.

- Consider, for instance, that the former Ohio Attorney General Richard Corday has been tapped to lead enforcement efforts at the Bureau. This provides tangible evidence of the close interaction expected to occur between the Bureau and state Attorneys General.
- This close working relationship with State attorneys general also is evidenced in the Bureau's involvement in enforcing new mortgage regulations. As reported in the New York Times on March 16, 2011, State attorneys general, in collaboration with Elizabeth Warren (the individual tasked with organizing the Bureau which does not officially open its doors until July 21, 2011), have been pushing for \$20 billion in fines against banks and mortgage servicers that foreclosed on homes without proper documentation. Benn Protes, Consumer Bureau Overseer Debates G.O.P. Critics, N.Y. Times DealBook, Mar. 16, 2011, Legal/Regulatory.





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Charles P. Greenman is a partner at Troutman Sanders LLP and concentrates his practice in the areas of trade regulation and commercial litigation. He has represented numerous manufacturers, distributors, retailers, financial institutions and service providers in investigations by federal, state and municipal regulatory agencies. He has represented clients in proceedings brought by State Attorneys General in more than twenty states, the FTC, FINRA and the SEC. He is also an experienced commercial litigator. He routinely appears in both state and federal courts. He has defended numerous class actions relating to a wide variety of consumer and securities issues.

Charles was the Assistant Commissioner of the Department of Consumer Affairs for the City of New York. He also served as the Consumer Advocate for the City. He has served as Chairman of the Robinson-Patman Act Subcommittee of the New York State Bar Association and Chairman of the Committee on Consumer Affairs of the New York County Lawyers' Association. In addition, he taught Consumer Law at New York University School of Law for more than a dozen years and has written numerous articles on consumer law issues for the New York Law Journal and similar publications. Since 1997, Mr. Greenman has been the Co-Editor of the Consumer Law Newsletter (formerly, the Retail Law Newsletter), a publication that reports on legal issues of particular interest to retailers and other providers of consumer goods and services.

He has also had the privilege of counseling two foreign countries in their adoption of consumer protection laws.

**Recent Presentations & Publications**

Speaker, "Hot Topics in Retailing Law," CLE Seminar, June 23, 2009.

**Practice Areas**

- Consumer Law: Multi-State Trade Regulation Investigations, Litigation & Counseling
- Credit Crisis & Government Intervention Task Force
- Financial Services Litigation
- International Arbitration and Dispute Resolution

**Education**

- New York University (J.D., 1975)
- Boston University (M.Ed., 1971)
- Albion College (A.B., 1969)

**Bar and Court Admissions**

- New York
- U.S. District Court for the Southern District of New York
- U.S. District Court for the Eastern District of New York
- U.S. Court of Appeals for the Second Circuit
- United States Supreme Court
- U.S. Tax Court

**Bar Activities and Legal Associations**

- New York State Bar Association, past Chair of Robinson-Patman Act Subcommittee
- City Bar Association, past member of Committee on Consumer Affairs
- New York County Lawyers' Association, past Chair of Committee on Consumer Affairs



Speaker, "Conducting International Arbitration," CLE Seminar, April 3, 2009.

Speaker, "Antitrust Update for the ABA Corporate Counseling Committee," American Bar Association Antitrust Section Teleseminar, December 17, 2007

Co-Editor: The Consumer Law Newsletter (f/k/a The Retail Law Newsletter) (A semiannual newsletter that reports on legal developments of particular interest to retailers, manufacturers, providers and distributors of consumer goods and services), 1997- present; Author: "Accuracy Under FRCA 'Bryant' Sets Standard," New York Law Journal, Vol. 189, No. 100, 1983; "The Midtown Store Licensing Law," New York Law Journal, Vol. 189, No. 61, 1983; "Schemes to Defraud: Judicial Interpretation of Penal Law §190.60 and §190.65," New York Law Journal, Vol. 188, No. 103, 1982; "Setback for Consumers; Restricting the Private Right of Action," New York Law Journal Vol. 188, No. 12, 1982; "The Padlock Law," New York Law Journal, Vol. 187, No. 83, 1982; "Deceptive Trade Practice; Private Right of Action in New York," New York Law Journal 187, No. 20, 1982; "Unauthorized Electronic Fund Transfers: Recent Cases in New York," New York Law Journal, Vol. 186, No. 84, 1981; "Civil Procedure: New York Holds Non Resident Business Subject to Local Consumer Regulations," National Law Journal, Vol. 11, No. 14, 1979



## **Karen F. Lederer**

### **Partner**

#### **Practice Group Leader**

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Karen F. Lederer is a partner at Troutman Sanders LLP and the head of the firm's Consumer Law/Trade Regulation practice group. Ms. Lederer regularly advises retailers, manufacturers, and other providers of consumer goods and services on legal compliance in the areas of advertising; price advertising; special offers; coupons and rebates; gift card programs; loyalty programs; telemarketing, e-marketing and in-home sales; sweepstakes and contests; CPSC requirements and product recalls; and warranty practices. She represents companies in federal, state and local regulatory investigations, including matters before the FTC, CPSC, State Attorneys General across the country and local consumer protection agencies.

She also represents companies of all stripes in complex commercial litigation in federal and state courts, arbitrations and mediations.

Since 1997, Ms. Lederer has been the Co-Editor of the Consumer Law Newsletter (formerly, the Retail Law Newsletter), a publication that reports on legal issues of particular interest to retailers and other providers of consumer goods and services.

Ms. Lederer sits on the board of Cool Culture, a non-profit organization founded in 1999, which provides 50,000 low-income families with free, unlimited admission to the City's finest cultural institutions.

### **Presentations and Speaking Engagements**

Speaker, "Charitable Sales Promotions," October 26, 2009.

Speaker, "Hot Topics in Retailing Law," CLE Seminar, June 23, 2009.

Speaker, "The Consumer Product Safety Improvement Act of 2008,"

### **Practice Areas**

- Consumer Law: Multi-State Trade Regulation Investigations, Litigation & Counseling
- Financial Services Litigation
- Privacy & Data Security
- Franchise & Distribution
- Consumer Financial Protection Bureau

### **Education**

- University at Buffalo, State University of New York (J.D., with honors, 1978)
- University of Wisconsin (B.A., with honors, 1975)

### **Bar and Court Admissions**

- New York
- U.S. District Court for the Eastern District of New York
- U.S. District Court for the Southern District of New York

### **Bar Activities and Legal Associations**

- Association of the Bar of the City of New York, past member of Committee on Consumer Affairs
- New York State Bar Association



February 10, 2009.

Speaker, "Understanding & Complying with Sweepstakes & Promotions Law," CLE Seminar, December 12, 2008.

**Representative Experience**

*Trade Regulation Investigations and Litigation*

Representing an accounting firm in litigation brought by the FTC involving an alleged internet scam

Representing an equipment leasing company in fraud investigations by five State Attorneys General

Representing a snack food manufacturer in investigations by the Connecticut Attorney General and the Sacramento County (CA) District Attorney into nutrition labeling under the Nutrition Labeling and Education Act and health claims made for botanical ingredients

Representing a regional department store chain in an investigation by the New York Attorney General into comparative price advertisements

Representing a chain of cosmetology schools in an investigation by the New York State Department of Education into compliance with state education regulations

Representing a national retail chain in investigations by the New York City Department of Consumer Affairs into the chain's advertising and practices regarding rebates, "price matching," "no interest" and refunds

Representing an international bus transportation company in administrative proceedings before the New York City Department of Consumer Affairs stemming from alleged violations of New York City's sightseeing bus licensing law

Handling product recalls before the Consumer Product Safety Commission, the Food and Drug Administration, and the National Highway Traffic Safety Administration



*Complex Commercial Litigation*

Representing various nationwide sellers of consumer goods and services as defendants in consumer class actions

Representing an equipment lessor in an arbitration in which the lessor asserted the “hell or high water” doctrine

Representing the owners of a majority interest in an apparel manufacturer in dispute over valuation of the business with the minority owner

Representing an Industrial Development Agency in an Art. 78 proceeding in which a union and its affiliated trade councils argued that the IDA had violated its Prevailing Wage Policy

Representing various companies in actions against former employees for diversion of corporate opportunities and breach of duty

Representing a medical technology company in an action by an investment bank for fraud and breach of an exclusive placement agent agreement in connection with a private offering of securities

Representing tenant under a 99-year ground lease in action to vacate arbitration award setting new rent, on grounds the “neutral” third arbitrator was partial to the landlord

Representing a restaurant chain in an action against a licensee to terminate the license and the licensee's right to use the chain's unregistered trademarks

Representing a website design firm in a “reverse passing off” case against former employee

Representing clothing and home furnishings manufacturers, as plaintiffs and defendants, in trade dress infringement cases

*Consumer Credit Counseling and Litigation*

Counseling various banks, sales finance companies and retailers on issues arising under Truth-in-Lending, Equal Credit Opportunity, Fair



Credit Reporting, Fair Debt Collection Practices and Holder In Due Course Rules

Representing debt collection agencies in an industry-wide investigation by the New York City Department of Consumer Affairs

Representing a debt collection agency in class action lawsuit brought under the Fair Debt Collection Practices Act

Representing a sales finance company in Truth-in-Lending litigation brought by the New York Attorney General alleging hidden finance charges

**Publications**

Co-editor (1997-present) of the Consumer Law Newsletter (formerly Retail Law Newsletter), a publication which reports on legal issues of particular interest to providers and advertisers of consumer goods and services



**Mark E. Nagle**

**Partner**

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Mr. Nagle is a partner in the Washington, D.C. office of Troutman Sanders LLP. An experienced litigator with first-chair responsibility for more than 75 cases with published decisions, he has served as lead counsel in jury and bench trials in federal and state courts, proceedings before federal administrative agencies, and arbitration panels. He has also argued appeals in federal circuit courts and state supreme courts across the nation, and recently secured his first victory in the U.S. Supreme Court. Prior to joining Troutman Sanders, Mr. Nagle served as Chief of the Civil Division of the United States Attorney's Office in Washington, D.C.

Mr. Nagle's practice focuses on commercial disputes, False Claims Act and other civil enforcement proceedings and employment actions. He conducts internal investigations, represents clients before regulatory and law enforcement agencies, and provides counseling on compliance issues. Mr. Nagle has been selected for inclusion in *Best Lawyers in America* and *Washington, D.C. Super Lawyers* each year since 2007.

**Representative Experience**

**False Claims and Other Government Investigations**

Argued and won appeal that established D.C. Circuit standard for proving liability under the False Claims Act for fraud in government contracting programs.

Negotiated \$87 million settlement to resolve False Claims Act *qui tam* action arising from health maintenance organization's alleged overcharges to Federal Employees Health Benefits Program.

Defended Medicare Recovery Audit Contractor in administrative challenges by health care providers to overpayment determinations.

**Practice Areas**

- White Collar & Government Investigations
- Complex Litigation
- Securities Litigation
- Labor & Employment
- Environmental and Toxic Tort Litigation
- Consumer Financial Protection Bureau

**Education**

- Georgetown University (J.D., 1979)
- Emory University (B.A., summa cum laude, 1976)

**Work Experience**

- Partner, Troutman Sanders LLP, 2005-present
- Partner, Sheppard, Mullin, Richter & Hampton LLP, 2004-2005
- Civil Chief, U.S. Attorney's Office for the District of Columbia, 1998-2004
- Attorney, LeBoeuf, Lamb, Greene & MacRae, 1997-1998
- Deputy Chief, U.S. Attorney's Office for the District of Columbia, Civil Division, 1993-1997 and Assistant U.S. Attorney, 1985-1993
- Attorney, U.S. Department of Justice, 1982-1985
- Associate, Moorcones Law Firm, Leesburg, VA, 1979-1982

**Bar and Court Admissions**

- Virginia
- District of Columbia
- Pennsylvania
- United States Supreme Court
- U.S. Court of Appeals for the Fourth Circuit
- U.S. Court of Appeals for the Ninth Circuit
- U.S. Court of Appeals for the District of Columbia Circuit
- U.S. District Court for the District of Columbia
- U.S. District Court for the Eastern



Settled \$15 million False Claims case based on Medicaid fiscal agent's alleged failure to maintain accurate, current enrollment data.

Negotiated settlement of False Claims case involving allegations of upcoding in Medicare claims submitted by oncology clinic.

Settled \$5.5 million False Claims action against prominent Washington, D.C. hospital based on unbundling of Medicare claims for laboratory test services.

Resolved one of the first Physicians At Teaching Hospitals ("PATH") cases in the U.S., involving double claims to Medicare program for salaries of medical residents.

Defended student loan corporation in multimillion dollar False Claims litigation alleging fraud in federal lending programs.

Counsel to Indian nation in internal investigation of construction, management and operation of its \$250 million casino.

Counsel to national charity in successful defense of tax fraud action brought by U.S. Department of Justice.

### Complex Litigation

Argued first appeal in Maryland's highest court to construe statute defining corporation's duty to indemnify officers and directors.

Trial counsel for real estate investment trust in breach of contract and securities fraud litigation against former trust executive.

Trial counsel for interstate trucking company in arbitration of ERISA dispute arising from company's withdrawal from multi-employer pension plan.

Trial counsel for western electric utilities accused of overcharges during 2000-01 California electricity crisis.

Defended former senior Justice Department official in action arising from post-9/11 law enforcement policies in companion case to *Iqbal v. Ashcroft*.

Lead trial counsel for Secretary of the Interior in unprecedented civil contempt proceeding against a member of the President's cabinet.

Represented utility in circuit court appeal of FERC dismissal of complaint by steel producer seeking refunds from wholesale sellers of electricity.

Argued *en banc* appeal that secured reversal of decisions holding D.C. curfew statute unconstitutional.

District of Virginia

- U.S. District Court for the Eastern District of Virginia
- U.S. District Court for the Eastern District of Wisconsin

### Distinctions

- Selected for inclusion in Law & Politics' *Washington DC Super Lawyers* (2007-2011); Selected for *Super Lawyers Corporate Counsel Edition* (2010)
- Recognized in *The Best Lawyers in America* in Administrative Law and Criminal Defense: White Collar in the 2007-2011 editions.
- Secretary of the Interior's Special Commendation, presented personally by Secretary Gale Norton, September 2002.
- Director's Award for Superior Performance in a Managerial/Supervisory Role, presented by the Director of the Executive Office for U.S. Attorneys, Department of Justice, 2001.
- Harold Sullivan Award, presented annually to one AUSA by the Assistant United States Attorney's Association for outstanding achievements as a trial attorney, 2000.





Defended nationwide class action brought by Hispanic customs agents alleging discrimination, defeating three class certification motions in three years.

**Selected Publications and Presentations**

*Resolving Conflicts Of Interest When Employees Are Under Investigation*, American Conference Institute Forum On Conducting And Responding To Internal Investigations, New York, April 2007.

*The Must-Have Record: Board Meeting Minutes*, (with R. Howard and C. Loveland) 29 Directors & Boards Magazine 52 (2005).

*How To Handle A Whistleblower*, United Communications Group Annual Compliance Conference, Las Vegas, October 2005.

*How The Government Decides Who, What And When To Prosecute*, United Communications Group Annual Compliance Conference, Las Vegas, October 2004.

*Suders: The Supreme Court Reaffirms Value Of An Anti-Harassment Policy*, Employee Relations Law Journal, Winter 2004.

*Parallel Proceedings: Criminal, Civil, Administrative and Congressional*, District of Columbia Bar Continuing Legal Education Program, Washington, November 2003.

*Civil Health Care Fraud Prosecutions Under The False Claims Act*, American Bar Association Annual Convention, Washington, August 2002.

*What A Prosecutor Looks For In A Compliance Plan*, Medicare Fraud Alert Conferences, Washington, Atlanta, Orlando, New Orleans, November 1999- November 2000.



## Ashley L. Taylor Jr.

### Partner

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Ashley is practice group leader of the Regulatory Compliance and Government Litigation practice group and a member of the firm's Executive Committee and Partner Compensation Committee.

Ashley's practice focuses on multistate regulatory work, consumer protection, civil litigation and administrative law matters. Drawing upon his experience as a Deputy Attorney General he has developed an extensive consumer practice with regard to advertising, marketing, and privacy related issues. He also represents clients' interests in single or multistate enforcement activities by state attorneys general. In 2008, Ashley founded the American Bar Association subcommittee on state attorney general matters.

Ashley previously served as a Commissioner on the United States Commission on Civil Rights, appointed by President Bush from 2004-2010. Ashley's current experience involves the defense of a mortgage corporation against approximately thirty-five separate state enforcement actions and investigations alleging origination and servicing violations. Ashley was recently appointed by Governor McDonnell to serve as member of Virginia's Independent Bipartisan Advisory Commission on Redistricting.

### Representative Experience

#### Multi-State State Attorneys General Investigations

Representation of data broker regarding 44-state investigation into data breach

Representation of a leading pharmacy benefit manager in a 33-state investigation involving "undisclosed" rebates

### Practice Areas

- Representing Clients in State Attorney General Investigations
- Regulatory Compliance and Government Litigation
- Privacy & Data Security
- Tobacco
- Consumer Financial Protection Bureau

### Education

- Washington and Lee University (J.D., 1993)
- Virginia Military Institute (B.A., 1990)

### Work Experience

- Partner, Troutman Sanders LLP (2003–present)
- Commissioner, United States Commission on Civil Rights, Appointed by President George W. Bush (December 2004–2010)
- Associate, Troutman Sanders LLP (2001–2002)
- Deputy Virginia Attorney General (1998–2001)
- Associate, Kaufman & Canoles, Norfolk, VA (1995–1998)
- Law Clerk, United States District Court (1993–1995)

### Bar and Court Admissions

- Virginia
- United States Supreme Court
- U.S. Court of Appeals for the Fourth Circuit
- U.S. District Court for the Eastern District of Virginia

### Bar Activities and Legal Associations

- Chair of State Attorneys General Sub-committee, American Bar Association
- Member, Virginia Bar Association's Committee on Federal Judgeships, Eastern District
- Member, Commission on Virginia



Representation of national trade association in connection with NAAG "model" legislation

Representation of national pharmaceutical company in multi-state investigation involving off-label marketing

#### Litigation

Counsel to manufacturer challenging Tax and Trade Bureau regulation

Counsel to distributor in RICO action (*R.J. Reynolds Tobacco Company v. Market Basket Food Stores, Inc.*, Civil Action No. 05-253)

Counsel to national ministry in defense of action alleging various Constitutional challenges (*Americans United for Separation of Church and State, et al., Appellees v. Prison Fellowship Ministries, Inc., et al.*, 509 F.3d 406 (8th Cir. 2007); 2007 U.S. App. LEXIS 27928)

Counsel to real estate developer in land acquisition dispute (Ventures Development, LLC and Lakeside Commons, LLC v. B.D. Ashe, Case No. 025CL06000137-00)

#### **Publications and Speaking Engagements**

"Emerging State Enforcement Activities and Investigations and the Growing Authority of the State Attorneys General", American Conference Institute's National Advanced Forum on Litigation and Enforcement Preparedness for Data Privacy & Information Security, Dallas, TX, June 2010

"Federalism - The Ever Evolving Relationship Between the Federal and State Governments", American Bar Association State and Local Government Annual Meeting, San Francisco, CA, August 2010

"Working With AGs to Maneuver Your Way Through the Investigation Process", American Conference Institute's 9th Annual Conference on Consumer Finance Class Actions & Litigation, January 2010

"State Attorneys General: Responding to Multi-State Regulatory Compliance Investigations", American Bar Association Panel Seminar, July 2009

Courts in the 21st Century, appointed by Chief Justice Hassell

- Former Member, Executive Counsel, American Bar Association, Young Lawyers Division
- Former Member, Executive Committee, Virginia Bar Association, Young Lawyers Division
- Former Director, Virginia Military Institute Athletic Association (The Keydet Club)

#### **Distinctions**

- Recognized in *The Best Lawyers in America* in Corporate Law in the 2011 edition
- Recognized as a *Virginia Super Lawyer* in Civil Litigation Defense (2006-2011); *Super Lawyers Corporate Counsel Edition* for Civil Litigation Defense (2009-2011)
- Named to Virginia Business magazine's *Legal Elite* in Legislative and Regulatory Law (2004, 2010), Civil Litigation (2005, 2007, 2009), and Young Lawyer (2006, 2008)
- Recognized as one of "[The 50 Most Influential Minority Lawyers in America](#)" by the National Law Journal (2008)
- Named as Style Weekly's Top 40 under 40 (2007)
- Named by the American Bar Association State and Local Government Section as the "Up and Comer" of the Year (1999)



"Troutman Sanders' Ashley Taylor on the Rise of the State Attorneys General", *Corporate Crime Reporter*, July 2009

"From Cradle to Grave: Regulatory Investigations Which Beget Complex Business Litigation," Washington Metropolitan (WMAACA) Chapter of Association of Corporate Counsel, May 2009

"Multi-State Investigations and Suits: How to Address the Expanding Authority and Ambition of State Attorneys General," Washington Legal Foundation's Web Seminar Series, March 2009

"State Attorneys Investigation," *American Legislative Exchange Council*, November 2008

"State Attorneys General: The Robust Use of Previously Ignored States Powers," Co-Author, *The Urban Lawyer, The National Journal on State and Local Government Law*, Summer 2008

"ChoicePoint Official: Experienced Counsel Key for Multi-State AG Probes," *The Bureau of National Affairs, Inc.*, July 2007

"Cases Involving Government Agencies Present Unique Discovery Issues," Co-Author, *Atlantic Coast In-House Counsel*, July 2005

"Effectively Responding When the State Attorneys General Are Arrayed Against Your Company," *Atlantic Coast In-House*, March 2004

**Firm Management Responsibilities**

Member, Executive Committee

Member, Partner Compensation Committee