

***Regulatory Oversight* Podcast — Balancing Law and Public Service: Insights  
From AG Formella**

**Hosts: Stephen Piepgrass**

**Guest Host: Chuck Slempp**

**Guest: John Formella**

**Stephen Piepgrass:**

Welcome to another episode of *Regulatory Oversight*, a podcast that focuses on providing expert perspective on trends that drive regulatory enforcement activity. I'm Stephen Piepgrass, one of the hosts of the podcast and the leader of the firm's Regulatory Investigations, Strategy and Enforcement Practice Group.

This podcast features insights from members of our practice group, including its nationally ranked state attorneys' general team, as well as guest commentary from business leaders, regulatory experts, and current and former government officials. We cover a wide range of topics affecting businesses operating in highly regulated areas.

Before we get started today, I want to remind all of our listeners to visit and subscribe to our blog at [RegulatoryOversight.com](https://www.regulatoryoversight.com) so they can stay up to date on developments and changes in the regulatory landscape.

Today, my colleague Chuck Slempp is joined by New Hampshire Attorney General John Formella to discuss General Formella's background and significant contributions as the Chief Legal and Law Enforcement Officer in the state. Additionally, they will discuss General Formella's recent election as President of the National Association of Attorneys General, or NAAG, and his vision for fostering collaboration among state attorneys general to address multi-state legal challenges.

Chuck Slempp is a member of our Regulatory Investigations, Strategy and Enforcement Practice Group and, until a few months ago, was Chief Deputy in the Virginia Attorney General's office. General Formella has served as New Hampshire's Attorney General since April 2021 after being nominated by Governor Chris Sununu and confirmed by the Executive Council. General Formella brings a wealth of legal experience from his previous roles, including serving as Governor Sununu's legal counsel and working in private practice.

General Formella and Chuck, I want to thank you both for joining me today. I know we're all looking forward to hearing your insights into the AG's office and your outlook for NAAG.

**Chuck Slempp:**

Well, thank you so much for that introduction, Stephen. It is such a joy to be here today with my good friend, Attorney General John Formella of New Hampshire. General, It's so great for you to be here with us today. You bring a wealth of experience from your previous roles, including your work as Governor Sununu's legal counsel and your work in private practice. Now, as your work

as the president of the National Association of Attorneys General, congratulations. Look forward to talking with you about that and so many more topics here during the conversation today.

**John Formella:**

Absolutely, thank you, Chuck. It's great to be here.

**Chuck Slemp:**

Well, can we start? I kind of previewed it a little bit. But can we start with your personal background? I'd love to hear a little bit and maybe tell the listeners about what inspired you to pursue a career in law and how it brought you to be where you are today, the Chief Law Enforcement Officer, the Chief Legal Officer, and the Chief Prosecutor for the state of New Hampshire?

**John Formella:**

Sure. So, I was born in Minnesota, actually. A lot of people don't realize that about me, but I moved to Jacksonville, Florida before I was one. When people ask me where I'm originally from, I typically say Jacksonville, Florida, even though technically I was born in Rochester, Minnesota. I'm starting at the very beginning, but was born in Rochester, Minnesota, grew up in Jacksonville, Florida until I was 12, almost 13, and then moved to New Hampshire because my mom was in healthcare and got a job at Dartmouth-Hitchcock Medical Center in Hanover, New Hampshire.

So, moved to New Hampshire when I was 13, graduated high school in New Hampshire, went back to Florida State University for college, law school at GW, and then came back to New Hampshire after law school. I started work at a firm called Pierce Atwood after law school. It's one of the larger firms in Northern New England, and I practiced business and environmental law, did that for about four and a half years. I really enjoyed that. While I was there, I got involved in the community. So, I was on the zoning board in Portsmouth, as chair of a local city committee for the Republican party, was on the Republican state committee, and did some other things in the community.

I was practicing law and involved in the community and I got to know a guy named Chris Sununu, who ended up getting elected governor, and after he was elected governor, he asked me to come be his legal counsel. So, four and a half years into my legal career, I am legal counsel to the governor of New Hampshire.

**Chuck Slemp:**

That's a great test.

**John Formella:**

Yes. I did that for about four and a half years and then was appointed attorney general in 2021. That's kind of the quick version of how I got to where I am. As far as why I decided to become a

lawyer, whenever anybody asks me this question, there's sort of the fun reason and then the real reason. The fun reason, which is actually probably the first reason, is that I used to love Law & Order as a kid. I would watch episode after episode after episode and that was my first exposure to the practice of law and that's what made me start to think I wanted to be a lawyer and then I wanted to be a prosecutor.

**Chuck Slemp:**

Who was your favorite character?

**John Formella:**

Oh, Jack McCoy, for sure.

**Chuck Slemp:**

Oh, of course. Of course.

**John Formella:**

Yes. And Lennie Briscoe, Detective Briscoe was also a great character.

**Chuck Slemp:**

For me, it was Night Court. I'm sorry.

**John Formella:**

Okay. Nice.

**Chuck Slemp:**

I love Night Court.

**John Formella:**

Yes. Ironically, I didn't become a prosecutor right out of law school, but Law & Order is the first reason I want to become a lawyer. Later on, when I was in college at Florida State, I was involved in some political stuff and involved in student government, and I was an English major, English lit major. So, the joke is that as an English major, you have to find something else to do that will actually pay the bills. You're not going to graduate as an English major unless you want to become a professor, an English professor. But you got to find something to pay the bills.

So, I thought about what I wanted to do and I really, I liked the idea of law school. I went and sat in on a few classes. Florida State University has a pretty good law school and talked to a couple professors and ultimately made the decision to go into law. That's the real reason. I'd like to say that I had some magical inspiration or I had some really significant event in my youth that

caused me to want to be a lawyer, that I saw injustice everywhere, and I wanted to be a lawyer. I honestly can't say that's the reason for me. I got first exposed to it through TV and then just sort of did some of my own due diligence in college and that's what brought me to the practice of law. I have since become a lot more inspired by the practice of law, but I cannot say I went into this with a specific plan or from any real specific inspiration.

**Chuck Slemp:**

Well, you certainly are inspiring in your career and your practice of law. I mean, think about it. You've been named one of New Hampshire's 40 under 40 and one of the top 10 to watch young professionals in New Hampshire's Seacoast Region. Your career has the impressive private practice work at one of the largest law firms in New England, and also services counsel to the governor advising on all of these important issues at a really pivotal time, whether it was the opioid crisis or criminal justice reform initiatives or COVID-19. Now, with your services as AG, so you are an Inspiring figure and you've got a lot of inspiring work that you've done impressive background.

I'm curious based on all that, what do you see as your most significant contributions to the practice of law over that impressive career? And can you walk us through that and what do you think is the most significant moments how you have transformed or made the world better through the practice of law?

**John Formella:**

Absolutely. Yes, like I said, when I was in college, I didn't have some wellspring of inspiration for going into the practice of law, but I would say I've drawn much of my inspiration for the practice of law since I began practicing. When I came back to New Hampshire after graduating from law school, I got really involved in public service. So, I would say one of my first contributions that I think I've made to the practice of law is that I've demonstrated to people that you can really mix law and public service right from the get-go. You don't have to wait. I was on the zoning board within the first couple of years of my time as a lawyer. I was on the board of a volunteer ambulance corps during the first few years of my time as a lawyer.

Right out of the gate, I was mixing the practice of law and public service and community, and I think that that has been one of my contributions, especially in New Hampshire, is to show that young lawyers can do significant public service while also being a young associate, which typically takes a lot of hours. Young associates are burning the midnight oil, you're working long hours, and I think you can still make time for public service. I think showing that young lawyers can be active in public service and in their community has been a contribution I've made, and I'd like to think I've inspired at least a few young lawyers to try to follow the same path, because the other thing that you see in New Hampshire is that the legal profession is an older profession. It skews older just like our entire state.

So, I remember when I was coming in to the bar, it was a little tough to break in with the crowd of more experienced lawyers. And I think some lawyers in our state who begin practicing law, because of that dynamic, they're a little reticent to really get out there and try to take on big issues or get involved in big things. So, I like to think that I've shown young lawyers that you don't have to wait, not just to get involved in the community, but you don't have to wait to take

on significant legal issues. That's a general contribution I think I've made is just kind of blazing a path for younger lawyers to get involved and take on some of the big issues of the day.

More specifically, when I was in private practice, I did environmental law and hazardous waste was one area that I not only worked in. I did a lot of teaching in, so I would teach it at seminars and speak to industry to talk about how to comply, how to, for say, paper mills, to make sure that you're complying with regulations so that you keep the environment safe while at the same time, keeping your business viable. So, I did a lot of speaking and teaching in the area of hazardous waste regulation, and I think that's a very important area of environmental law for a couple of reasons. One, because it is one of the most straightforward ways to keep the environment safe, right? Handle hazardous waste appropriately. Another is that it's one of the easiest for the public to understand.

So, sometimes there's public debates over environmental law and our environmental regulations to stringent. But in the area of hazardous waste, I think most people understand that you need to be careful and handle hazardous waste appropriately. I actually had some academic contribution in that area. And then a couple other areas I'll name specifically is healthcare. So, healthcare and antitrust. During my time as attorney general, I've spent a lot of time on that. I think we, as an office, the New Hampshire Attorney General's office, we've really stepped up our game in the area of antitrust in the healthcare space, and we have helped maintain a competitive marketplace in healthcare for our state. So, I think that's been a big contribution I've made.

Then, one other one is land use law. We have a housing shortage in New Hampshire. There's a housing shortage across the country. As I mentioned, I served on the zoning board for four years, and I've really put a big focus during my time in public service, both with the governor's office and as attorney general in that area, in land use reforms that the state could enact to promote more housing development and build more affordable housing stock. I think that's another specific contribution. I could name others, but those are some that come to mind.

#### **Chuck Slempp:**

Now, you could go on and on and on, and you've accomplished so much in such a short amount of time. It's fun to watch and really exciting to see your contributions. You did talk about the AG's office and you talked about the intersection of law and public policy. I like to say all the time, there's no place that is a better fit to do the two things that I love, policy, making the world better through public policy and also the law. You've got that right, the intersection of law, politics, and policy, the Attorney General's office, you are hitting that on all of these issues, land use, environmental law, business, antitrust, healthcare.

That brings me to the next question. Each attorney general brings different perspectives and backgrounds and priorities to the different role. Working with attorneys general across the country, I see that. I'm curious how you believe, and maybe you touched on it just a second ago, your private practice background in business and environmental law, how that has helped shape some of your priorities within the AG's office.

**John Formella:**

One way that that's helped shape my priorities is that it has really caused me to try to bring a balanced approach to being attorney general, balancing the need to protect the public, and sometimes go after private sector actors, but also look for places to partner with the private sector. Because when I was in private practice, my experience in environmental law and business law has informed a general approach of balancing the needs of partnering with the private sector, but also at times, enforcing against private sector actors. That has, I think, helped me in a lot of different areas of the work that we do.

Specifically, we have an environmental protection bureau. My experience in environmental law has made me one of a small number of attorneys general, I think, that have come into office with direct experience in that area. So, I think it's caused us to step up our game in that space. We sued Monsanto over PCB contamination, and we got a great settlement there. We've brought claims for PFAS contamination against a number of companies. We've done a lot of things in the environmental space that I don't think we would have done if we had not had an attorney general who has had experience in the environmental sector. Those are some examples of how that background has informed my priorities.

**Chuck Slempp:**

Okay. Let's shift just a little bit. So, we've been talking about the New Hampshire Attorney General's office and the work that you do there and the approach that you bring, which I think is really, really a great topic for our audience to understand your view of things. So, I really appreciate that. Can we talk just a second about the size and makeup of your office? All AG's offices are different in jurisdiction and size, and your office is unique because you're not elected, you're it as attorney general. So, how does that play into and can you talk about that process just a little bit and the makeup of the office?

**John Formella:**

Yes, the selection process for attorney general in New Hampshire is unique. The governor nominates a candidate for attorney general and then that candidate has to be confirmed by the Executive Council. In New Hampshire, the Executive Council is a five-person body. Each member of that body is elected from a district throughout the state, so there are five districts in the state that these members come from. The Executive Council, the five members of the Executive Council, they have to confirm many of the major appointments that the governor makes. They have to approve contracts. They confirm judicial appointments. So, they've got a pretty important job.

So, the governor nominates a candidate for attorney general, then that person has to get confirmed by the executive council. They have to get at least three votes.

**Chuck Slempp:**

That's very interesting.

**John Formella:**

Yes. So that's the process. It's a pretty quick process too. The nomination will happen at a meeting of the governor and Executive Council on a Wednesday and typically a confirmation vote will happen only a meeting or two later. So, there's typically only a period of weeks that go by between a nomination and confirmation as opposed to other states where the governor nominates a candidate and they're confirmed by the state Senate. That process can take months. Our confirmation process takes weeks.

So, from the moment the governor nominates someone, they could be confirmed just a few weeks later. It is a very unique process that's different from just about every other state in the country.

**Chuck Slemph:**

Very cool. Well, how big is the office?

**John Formella:**

We've got about 180 people currently, about 75 lawyers. If we were fully staffed and it filled every funded position, we'd have about 213 people.

**Chuck Slemph:**

Typical straight government. You're asked to do so much and given limited resources to do it.

**John Formella:**

Exactly.

**Chuck Slemph:**

More with less.

**John Formella:**

Yes, when I think about the scope of things we do and the fact that we do it with only 180 people, it blows my mind.

**Chuck Slemph:**

What do you see as the most pressing issue or emerging trend facing your state today and how is your office tackling those issues?



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**John Formella:**

Yes, there's a few. It's always hard to narrow a question like this down to just a few issues, but there are a few that come to mind. The first is elder abuse and financial exploitation. I mentioned earlier that New Hampshire is an aging state. I think when you combine the fact that our population is aging with the fact that we're in a moment where we've got new technologies emerging all the time, those two things have created an environment that's ripe for elder abuse and financial exploitation. There are a lot of different ways to scam people and someone who is elderly, maybe lives alone, and is not familiar with some of the newest technologies that people who are either in their younger years or in their middle-aged years are using, they can be very vulnerable to scams, especially scams that use new technologies, or scams that come over the Internet, come over social media platforms. So, that's been a real growing issue in New Hampshire.

We've expanded our Elder Abuse and Financial Exploitation Unit. I did that last year. We took it from one attorney to two, which in New Hampshire is a big deal. In bigger states, that may not sound like a lot, but in New Hampshire, to take a unit from one attorney to two, to add an investigator, to add a full-time investigated paralegal, to add a victim-witness advocate. That's big growth for a unit in our office. So, that's been a real priority area for us. Data privacy is an emerging issue, I think not just in New Hampshire, but around the country. But we're the live-for-your-die state. So, privacy has always been a big deal here, and the rights of consumers to privacy in their data is a big issue for us.

Our legislature last year just passed a new data privacy law. So, earlier this year, I formed a new data privacy unit within our Consumer Protection Bureau that's going to focus on enforcing the requirements of our new data privacy statute. That's an emerging area for us. Civil rights has been a real priority. We've seen a rise in hate crimes or hate incidents throughout the state. So, we've expanded our civil rights unit and really stepped up the work we're doing there. We've brought civil rights actions against organized hate groups like NSC-131. And I've actually partnered with Attorney General Andrea Campbell in Massachusetts on that because she's been bringing actions against NSC-131 as well. That's been an emerging issue for us.

Then, mental health has been a real issue that touches a lot of different components of what we do, not just in the law enforcement realm, but across the spectrum of the work that state government does. So, we've really put a renewed focus on the work we do in the mental health space, and we've got more lawyers now spending more time on that than ever before.

And then the last one I'm going to name, which I would be remiss if I didn't, is drug enforcement, substance abuse and drug trafficking, which is my initiative for this coming year for NAAG, which I know we'll talk about in a little bit, but that's been a real focus for us. I think we've really strengthened our work in that area. We've strengthened our drug task force. We've strengthened our drug enforcement unit, and we've tried to build new partnerships with other state, local, and federal law enforcement agencies across New Hampshire to really develop a coordinated statewide strategy on drug enforcement. Those are just a few of our priority and emerging areas of focus.



**Chuck Slemp:**

Those are great. I love that you're focused on elder abuse prevention. As you may know, that's one of my passions. The fastest growing crime in America as our population ages. So, thank you for tackling what is a challenging but important issue that so many Americans face.

Okay. You were recently elected president of NAAG, the National Association of Attorneys General or NAAG. Congratulations.

**John Formella:**

Thank you very much. Thank you.

**Chuck Slemp:**

For those who don't know NAAG, it's a bipartisan organization that supports our nation's attorneys general through staff that focus on training and advocacy and research and collaboration. So, it's such a great organization with so many great people doing meaningful work. What does it mean to you personally to become president of this organization?

**John Formella:**

Well, to start, I'd say personally, it really is an honor. It's an honor and it's humbling to get to do this, to have my colleagues around the country have the confidence in me to elect me to this position and to lead the association for a year. As you said, it's such an important association because it's a forum for AGs of both parties to come together and talk about issues. It's a forum that helps convene support and train our offices. It's a forum that helps us organize multi-state actions. And frankly, it's a forum that just provides a source of support that we can all draw from in the work that we do, because in our states, we're in a very unique position, either being an attorney general or working in an attorney general's office, and most people don't understand we do and they don't really get it.

So, you kind of have to go to your colleagues in other states to get that support from people who know what you're going through, know the hours it takes, know the 24/7 nature of the job. So, it's humbling and I think a real honor for me to have a chance to lead a group that's so important and that does this kind of work. Then, I'm really proud to represent the state of New Hampshire and being president of the National Association of Attorneys General because it's very rare for a state of our size and especially a state with an appointed attorney general to have the opportunity to lead the association. So, I'm just proud to represent New Hampshire and to help put us even more on the map by taking this role.

**Chuck Slemp:**

Well, congratulations again. And one of the key responsibilities of a NAAG president is that you identify an issue for the organization to focus on during your time for the calendar year. The initiative that you talked about, the presidential initiatives, they helped shape the program and the training and policy efforts of AGs nationally. Your initiative is building on the opioid litigation

success. AGs are then leading the fight against substance abuse and drug trafficking. Can you tell us a little bit more about what you're seeking to accomplish this year and why you think this issue is important to you and your state?

**John Formella:**

Absolutely. So, I'll start with the fact that the attorney general community has had a lot of success in taking on the issue of substance abuse. While we've had a lot of success in the opioid litigation, there's so much more that we can do to fight substance abuse and drug trafficking. It is an area that is ripe for bipartisan work because it's not really political. It falls squarely within our public protection function, so it's not political. It's ripe for bipartisan work. And it is also, I think, really important for us as attorneys general to show that after the opioid litigation, we're not just checking a box, chalking up a win, and moving on. We are sustaining the fight against substance abuse and drug trafficking.

I think, generally, that's why this is a really important initiative. There's a few things I hope to accomplish specifically. First and foremost for us in New Hampshire and for me is supporting law enforcement in their efforts to disrupt networks of illegal drug dealers and really target the source of these drugs that are coming into our states and poisoning our citizens. Law enforcement has really been under siege the last few years. They've had a lot of challenges. Our state and local law enforcement agencies around our state and I know around the country have had trouble recruiting new officers. So, I think as attorneys general it's incumbent on us to really think about how can we support law enforcement in these efforts.

I don't think we've talked enough about that in the Attorney General community writ large over the past few years, and I think it's time to focus a little more on that. I also, just kind of going back to the theme of partnering with the private sector, I think there are opportunities for public-private partnerships in this area that we can explore more. So, I'm hoping to focus on that throughout the year. Then, I think we need to have an honest conversation about the criminal justice system and whether there are reforms that Attorney General should be advocating for. We should talk about what's working, what's not working. We might have some respectful debates on that, but we should see if we can identify some areas of bipartisan agreement that could strengthen the criminal justice system and enhance our work in the drug enforcement space.

So, those are just a few of the components of the initiative that I want to explore over the next year. I think we're not going to have any shortage of possible topics to talk about in this initiative. I think we're not going to have any shortage of potential speakers for various panels and the various conferences that NAAG does throughout the year. I think our challenge is not going to be so much to fill the year with discussion and action on this initiative. Our challenge is going to be making sure we focus in on a couple different areas where we can make a real difference.

**Chuck Slempp:**

Well, I thank you for doing that. As a former prosecutor myself, this is an area I'm passionate about and so thankful for your leadership and for bringing it to the forefront. Can I ask you two

questions related to that? One, how can folks stay informed about the initiative and the work that's being done by NAAG?

**John Formella:**

Absolutely. So, this sounds sort of cliché and pretty standard, but one way to stay informed about the initiative is to check out NAAG's website and look for various press that NAAG does on the initiative. Another way would be to check out the New Hampshire Department of Justice. We're going to be leading the way in the communications on this initiative over the next year. So, check out our website and look for our press releases on the issue.

But then a really good way to stay informed and get a sense of what we're doing is to look at the events calendar for the next year and see where you might be able to show up to an attorney general conference or an event, because I think we'll be talking about this initiative at all of those conferences and events and it's a good way to interact with attorneys general and their staff directly and to figure out ways that you might be able to partner with us in the work that we're going to do.

**Chuck Slemph:**

I love it. I love it. General, I've got two quick follow-up questions. Unfortunately, we're almost out of time. So, this podcast is geared toward the business community. Considering your initiative, what can the business community or industry as a whole do to support and help? Or what do they need to know about the initiative?

**John Formella:**

So, my first tip for industry is think about ways that you might be able to help attorney general offices in their work and proactively approach offices with ideas or proposes, because we don't know what we don't know and we're always on the lookout for potentially productive partnerships and getting that proactive outreach is really helpful. It's hard for me to tell industry specifically, "This is what you can do. This is how you can help beyond that," because again, I don't know what I don't know. I don't know what companies are willing to do. I don't know what their capabilities are. But I can solicit ideas and proposals and outreach. I would say, don't be afraid to reach out to us, whether it's the state of New Hampshire or the state that you're in, and just propose a way that you can help.

Because there's nothing public officials like better than a private organization that comes to the table offering to help with an initiative that we're working on, maybe bringing some funding to the table that can help, or bringing some manpower to the table that can help. Because as you mentioned earlier, Chuck, we have a lot of different things we're charged with doing, and we never have the resources that are sufficient to do it. So, proactive outreach and pitching of ideas as to how we can partner is really helpful.

**Chuck Slempp:**

That's great. All right, last question, kind of a personal question. I know as a kid you grew up in New Hampshire, but you're a fan of Florida State, you said. So, can you explain how that happened and I'm going to go there, what do you think about their season this year? I'm sorry.

**John Formella:**

Oh, that's okay. That's okay. It helps to talk about things that are hurting you, right?

**Chuck Slempp:**

Well, you got high point this year and low point this year.

**John Formella:**

Yes, absolutely. So, the reason I'm a fan of Florida State is what I mentioned earlier. I actually spent the first 12, almost 13 years of my life in Jacksonville, Florida, and that's why I ended up going to Florida State University for college. So, that's the reason I'm a fan. Why did I pick FSU over UF? Many Florida listeners might want to know. Well, because in Jacksonville, almost all of the teachers in schools were Florida State fans, because Florida State has a really good college of education.

When you're growing up and going through elementary school in a place like Jacksonville, Florida, all of your teachers are fans of Florida State. I think that had a somewhat subtle influence on me and pushed me towards being a fan of Florida State and that's why when it came time for me to want to go to college and come back to Florida for college, I chose FSU. That's the reason why. I, of course, grew up in the glory years of FSU as well. So, the glory years of Florida State were the late eighties and the nineties and the early 2000s. Those were sort of my formative years. That's another reason I loved Florida State. But I think the influence of my teachers was a pretty big one looking back.

**Chuck Slempp:**

Well, listen, this has been so wonderful. I've enjoyed our conversation. I know we can keep going and going and going, but we're out of time. So, I want to say thank you so much, General.

**John Formella:**

Absolutely.

**Chuck Slempp:**

It has been such a pleasure speaking with you. Thanks for being here.

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**John Formella:**

Absolutely, thank you, Chuck. It's been great and I look forward to doing it again.

**Stephen Piepgrass:** General Formella and Chuck, I want to thank you again for joining me today. This has been a fascinating discussion, and I'm sure our listeners enjoyed it as much as I did. Thank you to our audience for tuning in. Remember to subscribe to this podcast using Apple Podcasts, Google Play, Stitcher, or whatever platform you choose. We look forward to having you join us next time.

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