
Regulatory Oversight Podcast: Leading With Purpose: Oregon AG Ellen Rosenblum Discusses Her Role at NAAG

Hosts: Ashley Taylor

Guest: Ellen Rosenblum

Ashley Taylor:

Welcome to another episode of *Regulatory Oversight*, a podcast that focuses on providing expert perspective on trends that drive regulatory enforcement activity.

I'm Ashley Taylor, one of the hosts of the podcast and the co-leader of our firm's State Attorneys General practice. This podcast features insights from members of our practice group, including its nationally ranked State Attorney General's practice, 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 so you can stay up to date on developments and changes in the regulatory landscape.

Today, I'm joined by Oregon Attorney General, Ellen Rosenblum, to discuss her new role as president of the National Association of Attorneys General or NAAG. General Rosenblum has served as Oregon's Attorney General since 2012 and is the first female state attorney general in Oregon's history. As many of our listeners know, NAAG is a non-partisan forum that provides a community for attorneys general and their staff to collaboratively address issues important to their work, as well as training and resources to support attorneys general and protecting the rule of law and the Constitution.

Ashley Taylor:

General Rosenblum, I'm looking forward to today's discussion.

Ellen Rosenblum:

Thank you, Ashley. It's wonderful to be with you. We've gotten to do some really great things together already while I've been attorney general, and while you have been in your role with the Troutman firm, and it's a pleasure to be with you again.

Ashley Taylor:

Great. I'm going to talk about some of those things. But let's start with orienting our listeners to your background. So, what drew you to run for the office? And how long have you served?

Ellen Rosenblum:

Well, I'll start with how long I've served, which is almost three full terms. I have one more year of my third term, and this is my last term that I'll be serving. So basically, almost 12 years. It seems like every day there's something new, so I can't believe it's been that long. I decided to run after having a pretty full plate of different professional activities. I had been initially in private practice, then a federal prosecutor, then a state court trial and appellate judge. I had stepped down from judging after 22 years and along came this opportunity to run for attorney general in Oregon. We do have to run. So, I did that back in 2012 and I was thrilled to be elected, and here I am today after three elections, reelections.

Ashley Taylor:

So, you come to the position as president of NAAG with experience as both attorney general, as a judge, as a prosecutor, seeing the law participating in the process from many different perspectives. All of that probably makes sense to our listeners. I'm thinking though the listeners may not appreciate how you become president of NAAG. How does that occur?

Ellen Rosenblum:

Right. Well, I actually had been the Chair of the Conference of Western Attorneys General first. That was some time ago, earlier in my attorney general career, and we used to be sort of focused more in the leadership on geography. So, as having been the chair of CWAG, which is what we called it, it was kind of obvious that at some point, I would look to national leadership position with NAAG. That took a little while. I'm just thrilled now to have been selected by my colleagues, I believe unanimously, to serve as their next president. By the way, the first woman in over 20 years, which is kind of shocking, because we have lots of women attorneys general now. So, maybe we could say about time, right?

Ashley Taylor:

Absolutely. Well, share with the audience your role as NAAG president, and what your initiatives will be, and your priorities?

Ellen Rosenblum:

Sure. Well, as NAAG president, I plan to engage and already am, actually, engaging my fellow attorneys general, in developing bipartisan programming at our events, to share ideas, and to foster collaboration with them. So, in addition to my presidential initiative, which is America's Youth, AGs looking out for the next generation, we'll also be addressing other issues of critical importance to attorneys general and their offices across the nation.

So, some topics that continue to resonate, include consumer protection issues, artificial intelligence, that's really huge right now, obviously. Child exploitation, sadly. Human trafficking, also a big issue, something that we address as a bipartisan group. So, those are some examples.

I'm happy to talk more about my initiative, which is just getting going. We kicked it off at our December capital forum, and we have lots of plans for that coming forward. It's divided up into really three different areas. Technology, obviously, kids, youth. To them, it's not really technology, it's their life, it's what they do every day. It's using their phones, and their apps, and their games, and all those things, their social media. So, we want to look out for them. We don't want to keep them from having a good life. We want to help them to have a good safe life.

That is one of the areas. Another is we're calling Healthy Bodies, Healthy Minds, issues like vaping, smoking, alcohol, drugs, all of those issues, obviously, play into the safety concerns that we have for our youth today. And the third one, which I'm really excited about is financial literacy, and making sure that young people and their families are aware of the importance of knowing what you're getting into. For example, when you get your first credit card, when you take out your first loan. Now, when that happens, varies depending on the family, and the circumstances. But we've seen what happens with student debt, and how that can accumulate, and not be well understood by young people. In fact, that was my initiative when I was the chair of CWAG, was making sure that student debt didn't become the obligation of a lifetime. I think we've made some good strides there. But we have long ways to go.

Ashley Taylor:

I listened to all of that programming. I'm thinking, again, about our listeners, it may help our listeners for you to share some history about in NAAG. What is it? It's a great platform now and it's doing great things. But the historical context, I think would be important for our listeners.

Ellen Rosenblum:

Sure. Well, the inception of NAAG was in 1907, way before any of us were around. NAAG was initially created to discuss a common approach to antitrust issues related to the Standard Oil Company. Since then, antitrust efforts have consistently been a core aspect of the attorney general's role. In fact, we recently hosted the antitrust lawyers from all the different AG's offices here in Portland, and I was amazed. It was a roomful. So, this has continued to be a focus. But we've served as a platform for AGs to collaborate, to share insights, and to champion the interests of their respective states ever since the inception in 1907. And we continue to do that today.

Ashley Taylor:

I've described, and I'm wondering if you agree with this. I've described NAAG to clients and others entering the AG world as a real clearinghouse of information for AGs. It's a source of training, to where they can collaborate. I wonder if you would agree with that characterization.

Ellen Rosenblum:

Oh, absolutely. The association offers support and assistance to attorneys general and to their staff across the country. So, it's not just the 56 of us. It's all of our staff, which of course, adds up to probably into the thousands. So, while its origins began as a means to coordinate antitrust enforcement, the value is in providing this kind of collaborative platform, and we have seen that

role expand to facilitate collaboration on a wide variety of issues that attorneys general have enforcement authority over, such as consumer protection.

So, AGs, I'm just going to call us AGs. We've successfully come together in a bipartisan fashion many times over the years to address a host of really huge national issues, including things like the health impacts of tobacco, and the tobacco industry's marketing to youth. The national mortgage crisis. And most recently, of course, opioids. And now, technology. So, it's important to note that we also have this robust, as you mentioned, training, and research mission, which provides training to our offices throughout the nation.

This may shock you. Last year, we provided training to nearly 18,000 registrants, and those were all people that do this work in the attorney general office space. We assist AGs and their offices in front of the United States Supreme Court. We have a program through Supreme Court fellowships and moot courts to help the lawyers get ready for their arguments.

So, in essence, NAAG is a means for AGs in their offices to enhance and to improve their effectiveness while they're in office. I remember my first NAAG meeting was a training for the newbies, for the new AGs, and it was incredibly helpful. I was told that NAAG staff would actually come out to our offices to help to review our structure and our setup if we wish to have them do that. And then I learned that we actually had done that, sometime a couple of years before.

Ashley Taylor:

I will tell you, the training particularly for the Supreme Court arguments is one of the best training courses I have seen in the country, and people have commented over the years how the advocacy from the States has improved with the training every year. So, I wanted to commend you for what you are doing in that regard. It makes a real difference. I wonder, would you talk to the audience about NAAG as an entity? Is it a governmental entity? Is it a private? What is it?

Ellen Rosenblum:

No, it is not a governmental entity. It is an unincorporated association, organized under the statutes of the District of Columbia. We have received a designation. I don't want to get too much in the weeds here but as an instrumentality of the states by the IRS for federal tax purposes. So, there is that, but that does not make it a governmental entity. No, our individual AGs of course, we run state or sometimes territorial, or the district in the case of the District of Columbia, governmental offices. But this is an association, a non-profit type of association.

Ashley Taylor:

I want to shift the conversation to some of your activities as AG, and I want to step back a bit, because some of our listeners may not fully appreciate the fact that a state attorney general can serve both an enforcement function and a regulatory function in different ways. But the office is unique, at least from my perspective, in the sense that it's a combination of politics, policy, and the law. It's a unique combination. That also means that state AGs play a role in the legislative

process, which a lot of folks may not fully understand. So, would you give the audience some insight into the role that a state AG plays, oftentimes in the General Assembly of their particular state, and the role you may have played in legislation, and why you became involved?

Ellen Rosenblum:

Absolutely. I consider this job of being attorney general, to be sort of the confluence of policy, politics, and the law. I mentioned policy first, it's not necessarily the absolute top priority. I think the law, maybe, is ahead of that one. But they're all related. So, policy, I was surprised and happy to discover that as attorney general, even though I'm not a voting member of our legislature, we call the General Assembly, the legislature. I have a very significant role to play. And I think most AGs do, although everybody's is a little bit different. So, I can't speak for all my colleagues.

But I will say that, at least in my stage, I have the right during legislative sessions, during our longer session, which is every other year, to actually request certain bills. And we assist in actually formulating those bills by setting up convenings of task forces. Those task forces meet. And at the end of the day, in my case, we have had a number of extremely successful, not necessarily unanimous, but always, essentially a consensus agreement that we can present on different proposed bills to the legislature.

So, I'll give you a couple of examples of where I've been successful in that regard. My first one was with regard to policing, to issues that related to stops and searches and those kinds of things. Police profiling. We sometimes refer to it that way. And I got a bill passed, along with the support, of course, always with legislators that really was involved a lot of reform of that whole area of profiling. I'm happy to say that I think we've made a lot of improvements, especially in terms of record keeping and data, so that we know what's going on out there, and we can make changes, and we can make adjustments to have a fairer system. That was the first one.

The next one was public records reform. We hadn't reformed our public records laws since the 1970s. The time had come. We had increased the number of exemptions exorbitantly and it was not really a manageable situation any longer. So, we have made some great strides there and continued to do so. We still have what we call the sunshine committee that we're involved in, where we're reviewing every single one of those exemptions to make sure that they still need to be on the books, because I'm a great believer in sharing whatever the government can, in terms of our records, our public records. So, that was a really important one that we did.

Another is, and one that I'm really proud of is hate crimes and improving our hate crime and bias laws. It turned out that that had not been looked at for decades. We now have, I'm really pleased to say in Oregon, I think the best hate crime bias incident hotline that exists in the country. We get thousands of reports every year, unlike most states that either don't have a hotline, or if they do, it's not so effective, because they don't have the ability to actually provide assistance to people that call, and a lot of times they end up saying, "Sorry, that's not a crime. We can help you. We don't do that." If it's not a crime, we help them maybe even more so because then we don't have to refer them or we can't refer them to law enforcement. That's another example.

Most recently, we had a very successful consumer privacy convening. We have a task force that met over three years throughout. We entered take a short break during COVID, but we pivoted and we came back. And in the last session, we passed what I think is really the most, I can't say successful yet because it really has not. It's just going into effect this year. But our Oregon Consumer Privacy Act is really going to make a difference for Oregonians with a number of important rights over their personal information and imposing specific obligations on businesses who collect and use and store our data. Sometimes without us even knowing what they have. Big important changes in that regard.

All of those involved, convening, task forces, meeting, making proposals, bringing legislators in as ex officio members of our task forces so that they would be engaged early on, and then getting these bills passed, and getting the Governor to sign it, which she has, in all of these instances. So, really proud of the work that we've done. I'll be going to the legislature just in another couple of weeks, mostly on some budgetary items, because this is our short session. But we do have some significant bills. Again, it will be my last session. So, I'm feeling a little bit sad about that, because usually, I'll be planning for the next long session, but I'm sure our new attorney general who will be elected this fall will be engaged, sure, in the 2025 session. So, looking forward to assisting that person going forward.

Ashley Taylor:

Great. I want to turn now to a function in the office. We've been talking about the office's position with respect to legislative matters. I'm glad you use the term convening. I've often used that term that AGs have a unique convening, what I've described as a convening authority. By that, I've always said, when an AG calls and says, "Would you like to come visit with me in my office?" The answer is always, "Of course, I would." So, the office has great power in that regard, and it's a power that most folks don't understand, it can be a great force for good, sharing information, et cetera.

One of the powers that an AG has is the enforcement power, often exercised through the multi-state process. Why don't you give the audience a sense of how multi-state investigations develop that process? What it is? It's something I know that you know very well and understand, but our audience may not fully understand what's behind the phrase multi-state.

Ellen Rosenblum:

Sure. Well, multi-state is kind of what it means, which is more than one state. And often, it's many states. Occasionally, it's all the states, and the territories in the District of Columbia, of course, I never want to leave them out. The process developed really out of necessity. Both AGs and those involved in the multi-states sought a mechanism that allowed for greater efficiency and for serving economies of scale to be achieved. Also, as had been the case with the Standard Oil antitrust case, that led to the foundation of NAAG, multi-states allow states to combine our resources and our expertise to tackle even the largest issues affecting our entire nation.

So, working together, we are able to take on these challenges. Whereas working individually, our ability to do so is harder. It's more challenging. So, the combination of efforts in a multi-state investigation can also prevent a multiplicity of lawsuits and make the resolution of these cases

more efficient for all concerned, including defendants and including the courts. What usually happens in terms of the process is we start out with some kind of a working group. It's not necessarily an investigation, but discussions between the offices. And usually, the representatives on these discussions are, well, they're always going to be people in the offices who have expertise in a particular area. So, there might be a working group on technology, a working group on issues related to the consumer privacy issues, to antitrust. Those groups of individuals will have regular calls, and I think they're usually phone calls on a regular basis, maybe monthly. Then, something will coalesce in terms of issues that look like they perhaps need to be stepped up for an investigation, and then that will turn into a multi-state investigation, and eventually, a meeting with the industry and proposed settlements, and hopefully, settlements that can alleviate the need for major litigation, individual separate litigation in every state, which is burdensome, expensive. Nobody really wants that. But this can be a way to avoid that and to try to get things done as a group.

Ashley Taylor:

Everything you described, is there a playbook where all of that is written down?

Ellen Rosenblum:

That would be nice. Look, no. As far as I know, not yet. But I think that is definitely something to talk about and something that our current Executive Director, Brian Kane, representatives from the business community, members of our, particularly our Consumer Protection Committee, could look at and should be looking at. Worthy discussion and frankly, an example of why NAAG exists and serves all of us.

At the same time, however, keep in mind that these processes involve a very diverse cast of characters and participants. So, while consistency is important, and can be helpful, we just have to recognize that there are a lot of differences. And that at the end of the day, each of us is independently selected or elected, and we may not necessarily – ultimately, it's going to be challenging to agree on that playbook. But I think it's a great goal to have.

Ashley Taylor:

Well, your comments reminded me of a theme and a response I've heard in multi-states over the years, when I advocate for consistency, or all the states doing the same thing. I'm reminded by assistant AGs all the time that each state is a sovereign and jealously guards its sovereignty and its independence. Right? So, you're balancing a multi-state process with the need to respect that individual state sovereignty.

Ellen Rosenblum:

Oh, absolutely. I will say that people sometimes think there's a lot of – frankly, I can't argue with the fact there's a lot of divisiveness in our country. But state AGs, we are among the least political in that sense, because we work on behalf of our constituents. We look for what is harming them. And we work together when we agree that there's an area that we can coalesce on. That turns out to be lots of areas. I've mentioned quite a number of them this morning.

Ashley Taylor:

Yes. Let me support and reinforce what you just said, particularly entities that are not accustomed to dealing with AGs. Think about a state attorney general, their first thought is a political thought, and our team's response is always that it's a lot less politics than you may think. Right? The state AG as an office, at the operational level, is really non-partisan. And you see that in the multi-state context when assistant AGs from both sides of the political aisle or offices on both sides work together, and you can't tell R from D in that context at all. At a functional level, it's not a partisan issue at all. And it's harder for folks who don't understand the office if they're just reading a headline to assume that is frankly, more political than it really is.

Ellen Rosenblum:

Absolutely. One of the things we're doing at NAAG to really make sure that we are living that concept that you just were talking about is that when we have a letter, for example, that we want to issue to Congress in support of, or opposing a new rule or a new law, we make sure that we have equivalent numbers of Democrats and Republicans in the lead on that letter, whether it be comments, whether it be something a little bit different.

So today, I'll just give you an example. Today, I can't give you the specifics. But I was working on a letter involving some comments in connection with the proposed rule relating to children, protecting children. So, something I cared deeply about. And it was my job to make sure that we had equivalent numbers of Republicans and Democrats in the lead on this letter. It was easy. It was easy. There were so many to choose from, that it was kind of hard because that made it hard. But it was easy because there were so many to choose from.

So, I'm just really pleased at how we are working together, but also being cognizant of the need to make sure, just in case, especially since I am a Democrat, and I am the leader of NAAG this year. I'm very much aware that I need to maintain my non-partisanship and my bipartisan approach, which for me is easy. I was a non-partisan judge for 20 years. When I ran for attorney general, it was the first time I'd ever even been able to declare what my political party was publicly since having been a judge. So, in some ways, I may be ideally suited for this job right now, in this moment.

Ashley Taylor:

One additional way that this non-partisan approach plays out, and I don't know if you have observed this from your position as either president of NAAG, or as attorney general for the state of Oregon. But I can make this observation as a practitioner. In the multi-state context, what I have seen over the past 20 years, is that there have been what I've described as centers of expertise that have developed. So, when you have a multi-state, and if you tell me the topic if you tell me the topic is technology. If you told me the topic is privacy. If you tell me the topic is data analytics. If you tell me the topic, I can pick the three or four states that are leading the effort, because you've seen this expertise develop and coalesce over a 20-year period. Again, it's an example of the bipartisan nature of the work because it's Rs and Ds who've just worked together over time on various issues, and the states have come to view this state, or this group of state as an expert in a subject matter.

So, you see that playing out on the ground, so to speak, in cases at the assistant AG level, and it's, again, I said, another example of how the expertise is what really drives the analysis as opposed to partisanship.

Ellen Rosenblum:

I think that is true. But I also, having now been attorney general for 12 years, I have seen some new AGs who have come in, and they have some special expertise. I trust as an example, with the Colorado AG. I'm not sure that that was necessarily a strength of Colorado before that attorney general came in. "Okay, this is really important to me." So, it really does make a difference who the attorney general is, in terms of setting the tone and setting the priorities for that office. Often, it does involve the expertise and background of that particular attorney general. So, I would say yes, and no. There's a little bit of both.

Ashley Taylor:

That makes a lot of sense. In our last couple of minutes, I want to turn to something that I know is important to you, and that's mentoring of young attorneys, particularly young women attorneys. Talk to me about that. What you've done? What should be done? Et cetera.

Ellen Rosenblum:

Well, mentoring is just key. When I look back on my career, there is no doubt that every step of the way I have been lifted up by others. Connections developed through law school, practicing alongside, and before litigators and judges, as well as all the diverse bar activities that I've been involved in. They've helped to shape me and determine really my course of practice and leadership.

So, I think mentorship is the key to modeling traits that we want our next generation of lawyers to embody, and happens to also be a relationship that grows the mentor, as well as the mentee, in the process. For me, mentoring is fun, and it's also an obligation, when I took the oath, to be a lawyer, and certainly to be attorney general. So, when I meet with young lawyers, which I tried to do regularly, and I really enjoyed the meeting I had with the RISE program in your law firm, I always try to ask that lawyer, what you want to do, or achieve in the next 5 or 10 years?

Then, we talk and over time, we kind of develop a little bit of a plan on how to get there. Sometimes it's the next year. Sometimes it's the next couple of months. But often, it's a longer-term plan that I try to assist with as a mentor. I also, and this is really important, I try to make room at every table for my mentees. If they don't speak up, I try to make sure to ask them what they think. Because there can be a little intimidation factor there, especially, when you take someone into a room that they've never been before.

Those are some of the goals that I have in mentoring. I just think, mentoring is one thing. Serving as a role model is another. And I had so many great role models. I didn't have a lot of mentors. I especially, didn't have a lot of women mentors, because I graduated from law school when women were just getting started, especially as litigators. There weren't very many of us. So, I had like one female judge mentor, maybe one practicing lawyer, female mentor. Most of

my mentors were amazing men who took me under their wing and helped me to grow in the profession and made me feel like I was valued, and that I could do it, that I could succeed. So, here I am today, very appreciative of the mentoring and the role models that I had.

Ashley Taylor:

I want to publicly thank you for spending time with a number of our associates. I knew that they would benefit from just spending time with you. So, I thank you for feeding into them and providing them with a role model and a vision of what is possible in their career. I want to publicly thank you for that.

Ellen Rosenblum:

Well, you're most welcome. But as I said, I learned a lot from them and enjoyed so much, the time that I got to spend with them. And I hope that we'll have other opportunities.

Ashley Taylor:

I want to thank you for joining me today. I know, like me, our listeners enjoyed your candid remarks and invaluable insights.

Ellen Rosenblum:

Thank you.

Ashley Taylor:

I want to thank our audience for tuning in today, as well, and please make sure to subscribe to this podcast via Apple Podcasts, Google Play, Stitcher, or whatever platform you use. We look forward to having you join us next time. Thank you.

Ellen Rosenblum:

Thank you so much for having me, Ashley. Great to be with you.