

Troutman Pepper State Attorneys General Monitor – April 2021

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Troutman Pepper's State Attorneys General team combines legal acumen and government experience to develop comprehensive, thoughtful strategies for clients. Our lawyers handle individual and multistate AG investigations, proactive counseling and litigation, and manage ancillary regulatory issues. Our successful approach has been recognized by *Chambers USA*, which ranked our practice as a leader in the industry.

REGULATORY DEVELOPMENTS

REGULATORS LIKELY TO FOCUS ON HYBRID TRANSACTIONS AND IOT DEVICES

By [Stephen Piepgrass](#) and [Daniel Waltz](#)

Hybrid Transactions

Consumers used more connected devices in 2020 than any year before it. As daily routines adjust, consumers spend more time at home, and as technology continues to evolve, consumers have quickly adopted smart devices to keep them connected to a wide variety of specialized services through the Internet of Things (IoT). [One pre-pandemic study](#) predicted that more than 31 billion IoT devices would be in use at the end of 2020 (up from seven billion in 2018), and as many as 75 billion devices will be connected by the end of 2025. Industrywide, IoT devices manufacturers are operating in a new frontier — both industrially and legally.

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TOBACCO NEWS

A TALE OF TWO CONTRACTS: BASIC CONTRACTUAL PRINCIPLES TANGLING UP THE WEB OF THE TOBACCO MASTER SETTLEMENT

By [Agustin Rodriguez](#) and Dascher Pasco

In December 2020, the Florida Supreme Court refused to take up R.J. Reynolds Tobacco Company's (Reynolds)

appeal of a ruling requiring the company to continue to make annual tobacco settlement payments to the State of Florida. The Supreme Court's refusal to hear the case leaves in place, in perpetuity, Reynolds's obligations to make payments under Florida's 1997 tobacco settlement agreement on the volumes of certain cigarette brands that Reynolds no longer owns — having sold these brands to ITG Brands LLC (ITG) in a 2015 asset purchase. As a result, Reynolds's parent company, British American Tobacco (BAT), took a \$555 million charge and stands to owe more than \$75 million per year in unanticipated settlement payments going forward.

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MULTISTATE AG ACTIONS

MCKINSEY ATTAINS GLOBAL PEACE OVER ALLEGED OPIOID INVOLVEMENT WITH STATE ATTORNEYS GENERAL – BUT AT A \$650M PRICE TAG

By Ketan Bhirud and [Chris Carlson](#)

Over the last two months, McKinsey & Company — one of the world's largest consulting firms — resolved matters with all 56 state attorneys general regarding investigations into its role in providing marketing and consulting services regarding opioids to producers and manufacturers, including Purdue Pharma, Johnson & Johnson, Endo, and Mallinckrodt. These consent judgments collectively add up to \$642,385,164 and constitute the first state opioid settlements that includes money to abate the opioid epidemic.

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ATTORNEY GENERAL PROFILE – CALIFORNIA

NEW AG ON THE BLOCK: CALIFORNIA ATTORNEY GENERAL ROB BONTA

By [Chris Carlson](#) and [Bonnie Gill](#)

On March 24, California Governor Gavin Newsom announced that Robert Bonta would replace Xavier Becerra as California's attorney general. Bonta will be the first Filipino American in the role. Bonta served as a deputy city attorney in San Francisco for nine years before being elected in 2012 to represent Oakland, Alameda, and San Leandro in the California legislature.

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ATTORNEY GENERAL PROFILE – NEW HAMPSHIRE

NEW AG ON THE BLOCK: NEW HAMPSHIRE ATTORNEY GENERAL JOHN FORMELLA

By [Chris Carlson](#) and [Bonnie Gill](#)

On March 3, Governor Chris Sununu nominated John Formella to be the next attorney general of New Hampshire, following the confirmation of former Attorney General Gordon MacDonald as chief justice of the New Hampshire Supreme Court. Formella has served as legal counsel for Governor Sununu since 2017, advising the governor and working with the New Hampshire Department of Justice and executive branch officials on significant legal issues

affecting the state. In that role, Formella collaborated on initiatives to improve the state's health care system, enhance the state's response to the opioid crisis, reform criminal justice, and combat the COVID-19 pandemic.

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DATA PROTECTION – VCDPA

NOTICE AND DISCLOSURE OBLIGATIONS: VIRGINIA CONSUMER DATA PROTECTION ACT SERIES (PART THREE)

By [Ronald Raether](#), [David Anthony](#), [Ashley L. Taylor, Jr.](#), [Jon S. Hubbard](#), [Timothy J. St. George](#), [Noah J. DiPasquale](#), and [Sadia Mirza](#)

One key area where Virginia's Consumer Data Protection Act (CDPA) differs from the California Consumer Privacy Act of 2018 (CCPA) and the California Privacy Rights Act of 2020 (CPRA) is the law's notice and disclosure obligations.

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DATA PROTECTION – CCPA

CALIFORNIA AG ANNOUNCES APPROVAL OF FOURTH SET OF MODIFICATIONS TO CCPA REGULATIONS

By Tim Butler, Wynter Deagle, [Ronald Raether](#), and Chelsea Lamb

On March 15, California Attorney General Xavier Becerra [announced](#) that the California Office of Administrative Law approved his fourth set of proposed modifications to the California Consumer Privacy Act's (CCPA) implementing regulations ([Fourth Set of Modifications](#)), completing the finalization process.

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