

Troutman Pepper State Attorneys General Monitor – February 2021

WRITTEN BY

Ashley L. Taylor, Jr. | Barry H. Boise | David M. Gettings | Ethan G. Ostroff | Stephen C. Piepgrass | Agustin E. Rodriguez | John S. West | Amy Pritchard Williams | Timothy J. "Tim" Bado | Christopher Carlson | Bonnie Gill | Andrew Henson | Kathleen M. Hutchenreuther | Mary Grace W. Metcalfe | Nicholas Ramos | Ryan J. Strasser | Siran S. Faulders | Miranda Hooker | William H. Hurd | Avi Schick | Ketan D. Bhirud | Rachel Miklaszewski

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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.

FALSE CLAIMS ACT

AMENDING DC'S FALSE CLAIMS ACT: EXPANSION OF THE DC AG'S POWER THROUGH REMOVAL OF THE TAX BAR

By [Amy Pritchard Williams](#), Miranda Hooker, [Ryan J. Strasser](#), and Rachel Miklaszewski

On January 13, District of Columbia Mayor Muriel Bowser signed the [False Claims Amendment Act of 2020](#) (the Amendment), which expanded liability under the D.C. False Claims Act (D.C. FCA) to encompass tax-related claims. The Amendment is effective unless Congress jointly disapproves it during a 30-day review period. The Amendment endeavors to increase tax revenue for the District of Columbia by enabling the D.C. attorney general to bring a new category of D.C. FCA cases and to incentivize private citizen whistleblowers to file more *qui tam* complaints. D.C. now joins New York and Illinois in taking the novel step of expanding its FCA to apply to tax fraud — an expansion that, if successful, could become a wave of the future and create heightened exposure for tax liability for many businesses and individuals.

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NEW TEAM MEMBER

KETAN BHIRUD JOINS TROUTMAN PEPPER TEAM

The Troutman Pepper [White Collar and Government Investigations](#) practice is pleased to welcome Ketan Bhirud to the firm's Washington, D.C. office. Ketan further strengthens our [Chambers-ranked State AG team](#), leveraging his extensive experience in the public and private sectors to skillfully represent client interests. He served as

General Counsel for the Office of the Nevada Attorney General, and was appointed as the Deputy General Counsel for the U.S. Department of Homeland Security and head of the Office of Legal Counsel for the U.S. Equal Employment Opportunity Commission.

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VIRGINIA ATTORNEY GENERAL

VIRGINIA AG'S NEW OFFICE OF CIVIL RIGHTS WILL SCRUTINIZE BUSINESS ACTIVITIES IN 2021

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

On January 5, Virginia Attorney General Mark R. Herring announced the creation of a new Office of Civil Rights, which will expand and replace the existing Division of Human Rights within the office of the attorney general. The new division is a prime example of state regulators' expanded scrutiny of workplace activities occurring [nationwide](#), particularly in light of recent federal rollbacks, for which all businesses must remain cognizant.

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COVID-19 RECOVERY

MARYLAND ATTORNEY GENERAL REPORT DETAILS RECOMMENDATIONS TO ASSIST RESIDENTS IN COVID-19 RECOVERY

By Tim Bado and [Ethan G. Ostroff](#)

On January 11, 2021, Maryland Attorney General Brian Frosh released a report detailing the state's recommendations to help Maryland residents recover from the severe impacts of COVID-19. The [report](#) was issued by the COVID-19 Access to Justice Task Force and outlined a holistic approach by making 59 legislative and policy recommendations. The Access to Justice Task Force is a partnership between the Maryland Attorney General's Office and the Maryland Access to Justice Commission, whose goal is to develop strategies and solutions to address the civil legal challenges facing Marylanders in the wake of COVID-19.

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SUPREME COURT RULINGS

SUPREME COURT REAFFIRMS STATE GOVERNMENTS MAY ENACT COST REGULATIONS WITHOUT TRIGGERING ERISA PREEMPTION

By [Andrew Henson](#) and [Mary Grace W. Metcalfe](#)

In the recent decision *Rutledge v. Pharmaceutical Care Management Association*, the Supreme Court unanimously affirmed the power of state governments to regulate Prescription Benefit Managers (PBMs) without triggering federal preemption under the Employee Retirement Income Security Act of 1974 (ERISA). In relevant part, the Court's opinion authorized state governments to enact rate regulations, which "merely increase costs or

alter incentives for ERISA plans without forcing plans to adopt any particular scheme of coverage,” distinguishing such regulations from those which “govern[] a central matter of plan administration” and are thus preempted. The decision upends prior precedent from the Eighth Circuit, which had recently embraced an even more expansive interpretation of ERISA’s preemptive power that resulted in the invalidation of several state laws regulating PBMs.

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MULTISTATE AG ACTIONS

STATE ATTORNEYS GENERAL CONTINUE THE MULTISTATE FIGHT AGAINST VETERANS’ FUNDRAISING FRAUD

By [Christopher Carlson](#) and [Nicholas A. Ramos](#)

Since 2018, attorneys general in every state, D.C., and several U.S. territories have coordinated with the Federal Trade Commission and the National Association of State Charities Officials to combat veterans’ fundraising fraud. The joint initiative — [Operation Donate with Honor](#) — targets fraudulent charities that claim to use their donations to help America’s veterans and groups, but in actuality enrich the charities’ founders and professional fundraisers. Consequently, the joint initiative has resulted in over 100 enforcement actions.

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WASHINGTON STATE ATTORNEY GENERAL

WASHINGTON STATE AG PUSHES FOR INCREASED PENALTIES FOR CONSUMER VIOLATIONS

By [Kathleen M. Knudsen](#) and [David M. Gettings](#)

Washington State Attorney General Bob Ferguson recently announced priorities for his 2021 legislative agenda. These priorities include public safety and criminal justice reform, tribal treaty rights, and protecting consumers. With respect to the last priority on consumer protection, Attorney General Ferguson is supporting two bills in the Washington legislature:

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