

Troutman Pepper State Attorneys General Monitor – June 2022

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Regulatory Oversight Podcast

WHAT IS THE MAJOR QUESTIONS DOCTRINE? A DISCUSSION WITH OHIO SOLICITOR GENERAL BEN FLOWERS

By [Misha Tseytlin](#) and [Stephen Piepgrass](#)

In Episode 3 of the *Regulatory Oversight Podcast*, Ohio Solicitor General Ben Flowers joins Troutman Pepper Partner Misha Tseytlin to discuss the history of the majors question doctrine, recent cases involving the statute, and how the statute has evolved over recent years. Solicitor General Flowers also discusses the recent interest in cutting back Chevron deference and the impact we could see in the regulatory and litigation landscape.

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Regulatory Oversight Blog

Make sure to visit Troutman Pepper's [Regulatory Oversight](#) blog to receive the most up-to-date information on regulatory actions and [subscribe](#) to our mailing list to receive a monthly digest.

Regulatory Oversight will provide in-depth analysis into regulatory actions by various state and federal authorities, including state attorneys general and other state administrative agencies, the Consumer Financial Protection Bureau (CFPB) and the Federal Trade Commission (FTC). Contributors to the blog will include attorneys with multiple specialties, including regulatory enforcement, litigation, and compliance.

AG Updates

2022 PRIMARY ELECTIONS HAVE BEGUN: WHAT TO WATCH FOR IN STATE AG RACES

By [Stephen Piepgrass](#), [Ashley Taylor](#), [Chris Carlson](#), and [Namrata Kang](#)

2022 primary elections for attorneys general are in full swing with 31 state attorneys general elections to be held this November. While there will be at least nine new state attorneys general due to term limits or incumbents choosing not to seek another term, there is also a historically high number of contested primaries, including challenges to incumbents that have been fixtures in the office for many years.

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EIGHT REPUBLICAN AGS EXPRESS CONCERNS ABOUT PERCEIVED LIBERAL PARTISANSHIP AT NAAG

By [Ashley Taylor](#), [Stephen Piepgrass](#), and [Ketan Bhirud](#)

On May 24, Kentucky Attorney General Daniel Cameron sent a letter to the National Association of Attorneys General (NAAG), expressing concerns about perceived partisanship. Joined by the attorneys general of Alaska, Florida, Louisiana, Oklahoma, South Carolina, Utah, and Virginia, the letter explains that these eight attorneys general believe “NAAG needs structural reform [t]o avoid partisanship” and “greater transparency prior to [] receiving, holding, and expending certain kinds of funds.” The attorneys general also worry about “increasingly partisan programming, and the seeming exclusion of conservative members in favor of more liberal ones.” They explain these concerns have “resulted in NAAG’s promotion of ‘entrepreneurial litigation’ and ‘suing businesses for profit,’ all of which is ‘more in line with the plaintiffs’ bar’ than making whole those who have been harmed.” They have requested that NAAG respond to these concerns by June 6.

[Read more](#)

NEW JERSEY AG SETTLES WITH SOLAR COMPANY OVER CONSUMER FRAUD ALLEGATIONS IN SALE AND LEASE OF SOLAR ENERGY PANELS

By [Ryan Strasser](#), [Mackenzie Willow-Johnson](#), and [Natalia Jacobo](#)

On May 3, the New Jersey Attorney General’s Office [announced a settlement](#) with Princeton-based solar company NRG Residential Solar Solutions LLC (NRG) for \$69,000 to resolve the state AG’s investigation into alleged deceptive sales practices. Specifically, the New Jersey AG alleged NRG mislead consumers into leasing solar energy panels by making representations regarding savings, servicing, installation, and financing but failed to deliver on these promises. This failure, according to the AG, violated the New Jersey Consumer Fraud Act and related consumer protection regulations. The settlement includes, among other things, NRG’s agreement to change its policies and practices and enter into binding arbitration to resolve pending consumer complaints.

[Read more](#)

NAAG LAUNCHES CENTER ON CYBER AND TECHNOLOGY: A POTENTIAL ROADMAP FOR AGS AND COMPANIES ALIKE

By [Ron Raether](#), [Jim Koenig](#), [Ashley Taylor](#), [Stephen Piepgrass](#), [Chris Carlson](#), and [Tim Bado](#)

On May 9, the National Association of Attorneys General (NAAG) announced the creation of the [NAAG Center on Cyber and Technology](#) (CyTech), joining a number of other centers focused upon key issues for state attorneys

general and the public, including tobacco and public health, ethics and public integrity, and consumer protection.

Cannabis Updates

DELTA-8 THC PRODUCTS TO REMAIN ON VIRGINIA STORE SHELVES, FOR NOW

By [Michael Jordan](#), [Agustin Rodriguez](#), and Christina Sava

On April 27, the Virginia Senate voted to send [SB 591](#), which would have effectively eliminated the delta-8 tetrahydrocannabinol (THC) product market in Virginia, back to committee, killing the bill for this year's legislative session. The move allows Virginia retailers to continue marketing the products for now despite growing calls nationwide for more regulation of delta-8 THC and other hemp-derived products that can produce psychoactive effects.

[Read more](#)

CFPB updates

CFPB ISSUES INTERPRETIVE RULE BOLSTERING ENFORCEMENT EFFORTS BY STATES

By James Kim, [Stefanie Jackman](#), and [Chris Willis](#)

On May 19, the Consumer Financial Protection Bureau (CFPB or Bureau) [issued an interpretive rule](#), describing states' authorities to pursue companies and individuals that allegedly violate any of the federal consumer financial laws enforced by the CFPB.

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Digital Assets

JOINT CHIEFS OF GLOBAL TAX ENFORCEMENT ISSUES RISK INDICATORS TO DETECT ILLICIT FINANCIAL ACTIVITY INVOLVING NFTS

By [Ethan Ostroff](#), Addison Morgan, [Keith Barnett](#), [Kalama Lui-Kwan](#), and [Carlin McCrory](#)

On April 28, the Joint Chiefs of Global Tax Enforcement (the J5), a global joint operational taxation group consisting of Australia, Canada, Netherlands, United Kingdom, and the United States, issued an [intelligence bulletin](#) (Bulletin), enumerating its perceived dangers of non-fungible tokens (NFTs).

[Read more](#)

CALIFORNIA GOVERNOR'S BLOCKCHAIN EXECUTIVE ORDER CALLS FOR STATE AND FEDERAL REGULATORY HARMONY

By [Keith Barnett](#), [Kalama Lui-Kwan](#), [Ethan Ostroff](#), Addison Morgan, and [Carlin McCrory](#)

On May 4, following in the footsteps of President Biden's recent [executive order](#) (Federal EO), California Governor

Gavin Newsom issued his own [blockchain-related executive order](#) (CA EO), making California the first among the states to endorse a proactive, harmonized approach to regulate blockchain technology. The CA EO assesses how existing state and public institutions may leverage blockchain technology to foster innovation and propel California to the forefront of the emerging digital asset market. The CA EO is founded on two notable objectives: (1) federal and state regulatory harmony and (2) consumer education and scholastic exposure.

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UDAAP Violations

CONNECTICUT ISSUES CEASE AND DESIST AGAINST LEAD GENERATOR

By [Carlin McCrory](#), [Keith Barnett](#), [Stefanie Jackman](#), and [Ethan Ostroff](#)

On May 4, the Connecticut Banking Commissioner issued a [temporary order to cease and desist and order to make restitution](#) against lead generator SoLo Funds Inc. (SoLo) for allegedly engaging in unfair, deceptive, and abusive acts and practices (UDAAPs) in violation of the Consumer Financial Protection Act of 2010, as well as for operating in Connecticut without a small loan company license or a consumer collection agency license.

[Read more](#)

False Claims Act Risk

FALSE CLAIMS ACT RISK FOR GOVERNMENT CONTRACTORS: AEROJET ROCKETDYNE SETTLEMENT LATEST CHAPTER

By [Ron Raether](#), [Jim Koenig](#), [Ashley Taylor](#), [Hilary Cairnie](#), and [Daniel Waltz](#)

On April 29, Aerojet Rocketdyne Holdings Inc. (Aerojet) settled claims by whistleblower Brain Markus for a [reported](#) \$9 million after the second day of a jury trial. This is the second recent settlement under the False Claims Act (FCA) relating to alleged misrepresentations about a company's cybersecurity practices and systems in connection with government contracts. We recently covered the settlement between the Department of Justice (DOJ) and Comprehensive Health Services [here](#). These two recent settlements highlight a growing trend to use the FCA as a mechanism to hold vendors that do business with the federal government accountable for meeting federal cybersecurity requirements.

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Our Cannabis Practice provides advice on issues related to applicable federal and state law. Marijuana remains an illegal controlled substance under federal law.

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