

Troutman Pepper State Attorneys General Monitor – May 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.

TRENDS IN ENFORCEMENT ACTIONS

POSSIBLE INCREASE IN FEDERAL AND STATE DATA PRIVACY ENFORCEMENT ACTIONS IN 2021

By Timothy Butler, [Ashley Taylor](#), Travis Andrews, and Chelsea Lamb

So far, 2021 is shaping up to be an important year for data privacy legislation. In March, Virginia enacted the Consumer Data Protection Act (CDPA) — the nation's second comprehensive data privacy law. Dozens of state legislatures are actively considering data privacy bills, with California continuing to ramp up enforcement of the California Consumer Protection Act (CCPA). Meanwhile, with Democrats in control of both the White House and Congress, the prospects of a comprehensive federal data privacy law have increased, and the first data privacy bill introduced in this Congress holds promise as a possible law that could garner bipartisan support.

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FALSE CLAIMS

NEW YORK RECEIVES \$105 MILLION IN TAX REVENUE AND DAMAGES UNDER FALSE CLAIMS STATUTE, WHILE OTHER STATES TAKE STEPS TO REMOVE THEIR TAX BAR

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

In early March, New York State Attorney General Letitia James and New York City Corporation Counsel John E. Johnson announced a \$105 million settlement against a hedge fund manager for tax evasion. The New York authorities were alerted to the potential of fraud in October 2018 by a whistleblower lawsuit brought under New

York's False Claims Act (FCA). This settlement adds to the more than \$460 million in tax-related false claim settlements the state has collected to date. This recovery should alert businesses to the continued trend of states pursuing tax claims under their respective FCAs even though the federal FCA does not include tax claims.

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MICHIGAN PERSONAL PRIVACY PROTECTION ACT

FEDERAL COURT RULES MICHIGAN PRIVACY LAW PROTECTS NONRESIDENTS

By [Ronald Raether](#), [Joshua Davey](#), [David Anthony](#), Sam Hyams, and [Edgar Vargas](#)

A federal court in Michigan recently ruled that out-of-state residents have standing to sue under the Michigan Personal Privacy Protection Act (PPPA). In *Lin v. Crain Communications, Inc.*, Case No. 2:19-cv-11889 (E.D. Mich., June 25, 2019), Gary Lin, a Virginia resident, filed a putative class-action lawsuit against Crain Communications, Inc. (Crain), a Michigan-based publishing business. Lin alleged that Crain violated the PPPA by selling his and other subscribers' personal reading information to third parties without obtaining consent. The U.S. District Court for the Eastern District of Michigan denied Crain's motion to dismiss, holding that because the PPPA does not impose a residency requirement, the fact that Mr. Lin was not from Michigan did not bar standing.

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FTC UPDATES

FTC REQUESTS CONGRESS TO RESTORE CONSUMER REDRESS AFTER AMG CAPITAL MANAGEMENT DECISION

By Timothy Butler, [Keith Barnett](#), [Carlin McCrory](#), Matthew White, and Troy Jenkins

The Federal Trade Commission (FTC) is acting swiftly to restore its authority to obtain consumer redress under Section 13(b) of the FTC Act after the Supreme Court's recent decision in *AMG Capital Management, LLC v. FTC* rejecting the agency's longstanding position that Section 13(b) authorizes monetary remedies.

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CFPB UPDATES

CFPB TAKES ACTIONS TO LIMIT COVID-19-RELATED MORTGAGE FORECLOSURES

By [Paul Boller](#) and [David Gettings](#)

On April 5, the Consumer Financial Protection Bureau (CFPB) issued a notice of proposed rulemaking (NPR) to amend Regulation Z, specifically to "prevent avoidable foreclosures" due to the COVID-19 pandemic "as the emergency federal foreclosure protections expire."

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TOBACCO REGULATION

FDA PROPOSES TO BAN MENTHOL CIGARETTES AND CHARACTERIZING FLAVORS IN CIGARS

By [Bryan Haynes](#), [Agustin Rodriguez](#), and [Nick Ramos](#)

On April 29, the U.S. Food & Drug Administration (FDA) announced that it will issue proposed tobacco product standards within the next year that will effectively ban menthol cigarettes and characterizing flavors in cigars. Once FDA issues proposed tobacco product standards, it will need to go through the notice and comment rulemaking process (and possibly litigation), so it could take several years before FDA implements any new standards.

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