

Troutman Pepper State Attorneys General Monitor — September 19, 2024

WRITTEN BY

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State attorneys general increasingly impact businesses in all industries. Our nationally recognized state AG team has been trusted by clients for [20 years](#) to navigate their most complicated state AG investigations and enforcement actions.

State Attorneys General Monitor analyzes regulatory actions by state AGs and other state administrative agencies throughout the nation. Contributors to this newsletter and related [blog](#) include attorneys experienced in regulatory enforcement, litigation, and compliance.

Contact our State AG Team at StateAG@troutman.com.

Troutman Pepper Spotlight

AI, LITIGATION, AND ISSUES SURROUNDING ADMISSIBLE EVIDENCE

[Gene Fishel](#) will be participating in a fireside chat panel during the upcoming [InfoSec World](#) Conference on Tuesday, September 24. The panel will discuss how the integration of AI processes will affect evidence in potential litigation, including both civil and criminal cases. They will explore the need for developers to incorporate compliance measures and evidence retention mechanisms into their processes, addressing regulatory concerns about AI data retention and liability. Additionally, the panelists will discuss rules and regulations for AI data retention, the evidence needed in litigation involving AI, and the implications for developer liability as AI systems become more independent.

State AG Updates

STATES' ACTION STILL VIABLE DESPITE BAN OF FTC NONCOMPETE RULE

By [Ryan J. Strasser](#) and Mackenzie W.J. Jessup

The Northern District of Texas's nationwide ban on the Federal Trade Commission's noncompete rule isn't a complete bar to government enforcement. The rule sought to curb unfair methods of competition and would have voided employees' noncompete provisions. It required employers to send notice that noncompete agreements are no longer enforceable.

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COLORADO ARGUES FOR EXPANDED APPLICATION OF STATE'S CONSUMER PROTECTION STATUTE

By [Troutman Pepper State Attorneys General Team](#)

In a recent amicus brief submitted to the Colorado Supreme Court, the Colorado Attorney General's (AG) office has expressed its support for plaintiffs in a case that raises questions about the interplay between Colorado's landlord-tenant laws and the Colorado Consumer Protection Act (CCPA). The case involves allegations that Home Partners Holdings LLC and its affiliates included illegal fees and provisions in their form leases, misleading tenants about their rights and obligations under Colorado law.

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TEXAS AG CHALLENGES HHS PRIVACY RULES

By [Gene Fishel](#), [Brent Hoard](#), [Joel Lutz](#), and [Susie Lloyd](#)

On September 4, Texas Attorney General (AG) Ken Paxton filed a lawsuit against the Department of Health and Human Services (HHS) Office for Civil Rights (OCR), challenging two key Health Insurance Portability and Accountability Act (HIPAA) rules — the 2000 Privacy Rule and the newly implemented 2024 Privacy Rule. These rules were enacted to protect the privacy of individuals' protected health information (PHI) under HIPAA. Texas argues that these rules unlawfully limit state investigators' ability to access PHI, impeding the enforcement of state laws.

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AG Of the Week

PHIL WEISER, COLORADO

Philip Weiser was sworn in as the state's 39th attorney general (AG) on January 8, 2019, and won re-election in the 2022 race. In 2019, he worked with the state legislature to strengthen the Colorado Consumer Protection Act, providing the AG's office with more tools to crack down on scams, as well as unfair and deceptive business practices.

Before running for office, Weiser served as the Hatfield professor of law and dean of the University of Colorado Law School, where he founded the Silicon Flatirons Center for Law, Technology, and Entrepreneurship, and co-chaired the Colorado Innovation Council.

Weiser served as a deputy assistant AG in the U.S. Department of Justice and as senior advisor for Technology and Innovation on the Obama administration's National Economic Council. He served on President Obama's transition team, overseeing the Federal Trade Commission, and previously served in President Bill Clinton's Department of Justice as senior counsel to the assistant AG in charge of the Antitrust Division, advising on telecommunications matters.

Before his appointment at the Justice Department, Weiser served as a law clerk to Justices Byron R. White and Ruth Bader Ginsburg at the U.S. Supreme Court and to Judge David Ebel at the Tenth Circuit Court of Appeals in

Denver, CO.

Weiser lives in Denver with his wife, Dr. Heidi Wald, and their two children.

Colorado AG in the News

- On September 17, Weiser gave the [keynote address](#) at the Colorado Law School's "Privacy at the State Level: An Attorney General's Perspective" event, emphasizing balancing consumer protection with innovation in AI and data privacy. He highlighted Colorado's regulatory approach, stakeholder engagement, and the need for federal and international coordination.
- On September 10, Weiser [announced](#) that Safe2Tell, an anonymous reporting platform protecting students' safety, saw a 23% rise in reports for August 2024 compared to the same month in 2023.
- On September 9, Weiser [warned voters](#) about AI-generated election misinformation and disinformation, known as "deepfakes," and highlighted a new law, HB24-1147, requiring disclaimers on AI-created political content to ensure transparency and prevent deception, with penalties for noncompliance.

Upcoming AG Events

- September: AGA | Plastics Forum | New Haven, CT
- September: NAAG | Fall Consumer Protection Seminar | Washington, DC
- October: RAGA | Fall National Meeting | Orlando, FL

For more on upcoming AG Events, [click here](#).

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