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Subject: Perkins Coie IP Atty Confirmed As Fed. Circ.'s 1st Black Judge

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PUBLIC POLICY

Tuesday, July 20, 2021

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TOP NEWS

Perkins Coie IP Atty Confirmed As Fed. Circ.'s 1st Black Judge

The Federal Circuit will see its first Black judge after a bipartisan Senate vote Monday to confirm Tiffany P. Cunningham, a Perkins Coie LLP partner and veteran patent litigator who said the appellate position had long been her "dream job."

2 documents attached | [Read full article](#) »

Contentious Biden Pick For 2nd Circ. Reports \$1.3M Net Worth

A longtime voting rights litigator nominated to the Second Circuit whose efforts to reduce voting barriers led to biting criticism from Senate Republicans has reported a net worth of almost \$1.3 million in congressional disclosures.

[Read full article](#) »

Top Florida Litigation Of 2021: Midyear Report

Florida has seen no shortage of notable litigation developments in 2021, including a likely resolution of the state's long-running "Water Wars" with Georgia and key rulings that could impact disputes arising from the COVID-19 pandemic.

[Read full article](#) »

Man Gets 18 Mos. For Murder Threats Against Flynn Judge

A New York man was sentenced Monday to 18 months in prison after admitting to threatening to assault and murder the D.C. federal judge who oversaw the politically charged criminal case of former Trump national security adviser Michael Flynn.

[Read full article](#) »

Congress Revives Push To Codify DOJ Access To Justice Unit

A powerful, bipartisan group in Congress is reviving a proposal to permanently restore the U.S. Department of Justice's Office for Access To Justice, in a bid to codify the unit dedicated to legal representation for the poor that was shuttered by the Trump administration.

2 documents attached | [Read full article](#) »

BANKING & SECURITIES

Robinhood Says It Expects \$30M Fine From NY Regulator

Robinhood said Monday that it now anticipates paying \$30 million as part of a tentative settlement with a New York regulator over anti-money laundering and cybersecurity issues at its cryptocurrency subsidiary, double the amount that the stock-trading platform previously earmarked for the matter.

[Read full article](#) »

Warren Calls For CFPB Scrutiny Of Overdraft Fees, Crypto

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Consovoy McCarthy

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Gibson Dunn

Girardi & Keese

GrayRobinson

Hansen Reynolds

Hogan Lovells

Hunton Andrews

Jones Day

Joseph & Hall

Kirkland & Ellis

Kobre & Kim

Kuck Baxter

Lewis Brisbois

Lewis Longman

Lipcon Margulies

McGuireWoods

Mintz Levin

Morgan Lewis

O'Melveny & Myers

Sen. Elizabeth Warren, D-Mass., said Monday that the Consumer Financial Protection Bureau should be part of the regulatory response to emerging cryptocurrency risks and cited "predatory" bank overdraft fee practices as an area where she hopes to see action from the agency as it marks its 10th anniversary.

[Read full article »](#)

ENERGY & ENVIRONMENTAL

House Passes Bills To Tackle Energy Cybersecurity Threats

The U.S. House of Representatives on Monday approved a pair of legislative proposals aimed at staving off cyber threats facing critical energy infrastructure in the wake of the damaging Colonial Pipeline hack by expanding the U.S. Department of Energy's role in this realm and boosting information sharing between the government and industry.

[Read full article »](#)

HEALTH & LIFE SCIENCES

Ex-FDA Senior Regulatory Counsel Joins Foley Hoag In DC

Foley Hoag LLP has continued its growth in Washington, D.C., by adding a former senior lead regulatory counsel from the U.S. Food and Drug Administration who spent nearly a decade with the agency, the firm announced Monday.

[Read full article »](#)

MEDIA & ENTERTAINMENT

Garland's 'Historic' Leak Probe Memo Comes With Fine Print

Attorney General Merrick Garland's move Monday to sharply curtail the seizure of data from reporters drew praise as a major step forward for press freedom, but experts say the memo leaves some wiggle room for the government to snoop on sensitive news-gathering activities.

Memorandum attached | [Read full article »](#)

Twitter Seeks 9th Circ. Review Of Texas' Moderation Probe

Twitter lambasted a trial judge's denial of its lawsuit seeking to block Texas Attorney General Ken Paxton's probe into the tech giant's moderation practices, telling the Ninth Circuit that it should revive the case because Paxton is unlawfully retaliating against the company for removing former President Donald Trump from the platform.

Brief attached | [Read full article »](#)

GOP House Members Form 'Freedom From Big Tech' Caucus

A group of House Republicans launched a "Freedom from Big Tech Caucus," consisting of a group of conservative lawmakers who supported antitrust reform that advanced through the House Judiciary Committee last month.

[Read full article »](#)

Major Networks Ask FCC To Clarify Advertisement ID Rules

The nation's largest broadcasters are asking the Federal Communications Commission to clarify what length an advertisement must be in order for it to fall under the agency's newly passed rules on disclosure of advertisements by foreign governments.

Comments attached | [Read full article »](#)

EMPLOYMENT & BENEFITS

Garland Urged To Bring Charges After Nassar FBI Report

Sen. Chuck Grassley, R-Iowa, has asked Attorney General Merrick Garland to consider prosecuting the former president of USA Gymnastics and FBI agents

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who allegedly made false statements to hide their botched investigation into team doctor Larry Nassar's pattern of sexual abuse.

[2 documents attached](#) | [Read full article »](#)

DoorDash, Grubhub Sue San Francisco Over 15% Fee Cap

Delivery giants DoorDash and Grubhub hit San Francisco with a lawsuit in California federal court Friday over a law permanently capping fees that the platforms can charge local restaurants at 15%, arguing that the law violates the U.S. and California constitutions and may unintentionally harm local restaurants, workers and consumers.

[Complaint attached](#) | [Read full article »](#)

Walmart Applicant Says Criminal Check System Discriminates

A Brooklyn woman hit Walmart with a proposed class action in New Jersey federal court on Monday alleging it unlawfully discriminates against applicants with criminal backgrounds through broad screenings that don't consider evidence of rehabilitation, a practice she says disproportionately harms Black and Latino applicants.

[Complaint attached](#) | [Read full article »](#)

COMPETITION

Analysis

DaVita Indictment, Biden Order Ramp Up No-Poach Pressure

The U.S. Department of Justice and the Biden White House are making it abundantly clear to expect more criminal antitrust prosecutions against employers that agree to control wages or avoid recruiting from one another.

[Read full article »](#)

DOJ Says Wage-Fixing Charges Were Never Off The Table

The U.S. Department of Justice told a Texas federal court that federal prosecutors never promised not to charge the former director of a physical therapist staffing company with criminal wage-fixing violations in exchange for his cooperation.

[Response attached](#) | [Read full article »](#)

EU Watchdog Eyes Spain's €101M Investor Arbitration Award

Europe's competition watchdog is going to be taking a hard look at whether a €101 million (\$119.2 million) arbitration award Spain has been ordered to pay after it retracted economic incentives for renewable energy investment meshes with the bloc's state aid rules.

[Read full article »](#)

PERSONAL INJURY & MEDICAL MALPRACTICE

Rioters Didn't Stop Congress On Jan. 6, Militia Says

The Oath Keepers militia group said Monday that members of Congress could not sue over the Jan. 6 Capitol Hill riot because the lawmakers were the ones who interrupted the Electoral College certification with an emergency adjournment as rioters were attacking the Capitol.

[Brief attached](#) | [Read full article »](#)

INTERNATIONAL TRADE

US And Vietnam Cool Trade Tensions With Currency Pact

Vietnam's central bank pledged to refrain from suppressing the value of its currency to gain an economic advantage in a handshake deal with the Biden administration Monday, quieting a long-simmering trade dispute between the two nations.

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[Los Angeles Times](#)
[Louisiana State Bar Association](#)
[Massachusetts Institute of Technology](#)
[McDonald's Corp.](#)
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GOVERNMENT AGENCIES

[Bureau of Citizenship and Immigration Services](#)
[Bureau of Land Management](#)
[California Supreme Court](#)
[Centers for Disease Control and Prevention](#)

EU Fights Russia's 'Discriminatory' Import Policy At WTO

The European Union launched a trade dispute with Russia at the World Trade Organization on Monday, saying that Russia's import substitution policy discriminates against foreign companies.

[1 document attached](#) | [Read full article »](#)

TAX

Ghislaine Maxwell Owes NY \$1.6M In Taxes, State Tax Dept. Says

Ghislaine Maxwell, former associate of deceased sex offender Jeffrey Epstein, is among the top 250 individual tax debtors in New York, owing nearly \$1.6 million, according to a list maintained by New York's tax department.

[Memorandum attached](#) | [Read full article »](#)

Calif. Gov. Hopeful Threatens Suit Over Ballot Disqualification

A California candidate for governor said Monday that the secretary of state's office disqualified him from the ballot because of improperly filed tax return information and said he would sue if the decision wasn't reversed.

[Letter attached](#) | [Read full article »](#)

BANKRUPTCY

Talc Plaintiffs' Attys Fume At Idea J&J Might Use Ch. 11 Tactic

Attorneys representing talc injury plaintiffs in some of the thousands of lawsuits related to exposure to Johnson & Johnson products said Monday that the company's purported plan to consider siloing its talc liabilities with a subsidiary and then moving it into bankruptcy is shameful and should be barred by law.

[Read full article »](#)

IMMIGRATION

Feds Call Off Appeal Salvaging Trump-Era Asylum Guidelines

The Biden administration has called off an appeal of a Washington, D.C., federal judge's decision striking down Trump-era credible fear guidelines as setting too high a hurdle for asylum-seekers to clear.

[Motion attached](#) | [Read full article »](#)

DC Judge Mulls Reserving Thousands More Diversity Visas

A D.C. federal judge is apparently leaning toward ordering the U.S. Department of State yet again to set aside thousands of visas for green card lottery winners whom the federal government hasn't processed or interviewed by the time the visas are set to expire.

[Read full article »](#)

Uber, Postmates AB 5 Suit Gets Nixed By Calif. Judge

California escaped claims by Uber, Postmates and two drivers for those companies that its worker classification test is unconstitutional after a federal judge agreed to toss the suit on the grounds that the law represents a legitimate state interest.

[Order attached](#) | [Read full article »](#)

9th Circ. Backs DHS In Immigration Environmental Impact Row

The Ninth Circuit nixed an appeal from conservationists and ranchers Monday, affirming that the U.S. Department of Homeland Security was not required to put immigration policies through environmental review.

[Opinion attached](#) | [Read full article »](#)

ICE Pays \$100K To End HIV-Positive Immigrant's Arrest Suit

U.S. Immigration and Customs Enforcement will pay an HIV-positive immigrant with a severe mental disability \$100,000 to settle claims that he was

Centers for Medicare & Medicaid Services

Colorado Department of Labor and Employment

Consumer Financial Protection Bureau

European Commission

European Union

Federal Bureau of Investigation

Federal Communications Commission

Federal Trade Commission

Florida Department of Environmental Protection

Food and Drug Administration

Government Accountability Office

International Trade Commission

Legal Services Corp.

Massachusetts Supreme Judicial Court

National Aeronautics and Space Administration

National Telecommunications and Information Administration

New York State Department of Financial Services

New York State Department of Taxation and Finance

Office of Surface Mining Reclamation and Enforcement

State Bar of Texas

U.S. Army

U.S. Army Corps of Engineers

U.S. Attorney's Office

U.S. Attorney's Office for the Southern District of New York

U.S. Court of Appeals for the District of Columbia Circuit

U.S. Court of Appeals for the Fifth Circuit

U.S. Court of Appeals for the Ninth Circuit

U.S. Department of Commerce

U.S. Department of Energy

U.S. Department of Homeland Security

U.S. Department of Justice

U.S. Department of State

U.S. Department of the Interior

U.S. District Court for the Central District of California

U.S. District Court for the District of Columbia

<p>traumatized by an arrest that a New York federal judge described as "no routine" affair, according to a Monday court filing.</p> <p><i>1 document attached Read full article »</i></p> <p>NATIVE AMERICAN</p>	
<p>Oklahoma Sues DOI For Coal Control On Tribal Lands</p> <p>Oklahoma has hit the U.S. Department of the Interior with claims that the department is threatening the coal industry by illegally taking away the state's authority over coal mining on Muscogee (Creek) Nation lands, teeing up a major test of how the Supreme Court's landmark McGirt decision applies to state regulation.</p> <p><i>Complaint attached Read full article »</i></p> <p>TELECOMMUNICATIONS</p>	
<p>Analysis</p> <p>Broadband Sats Are Filling The Sky. Are Regulators Ready?</p> <p>When the FCC allowed SpaceX to shift its planned Starlink broadband satellite constellation closer to Earth in April, the approval may have seemed routine, yet competitors like Dish and Viasat now say the unprecedented collection of devices could create challenges for scientific research and transmission from their own satellites. Here's a look at the burgeoning industry and the policy questions still to be resolved.</p> <p><i>Read full article »</i></p> <p>CANNABIS</p>	<p>U.S. District Court for the District of New Jersey</p> <p>U.S. District Court for the Eastern District of Texas</p> <p>U.S. District Court for the Middle District of Florida</p> <p>U.S. District Court for the Northern District of California</p> <p>U.S. District Court for the Northern District of Illinois</p> <p>U.S. District Court for the Southern District of Florida</p> <p>U.S. District Court for the Southern District of New York</p> <p>U.S. House Committee on Energy and Commerce</p> <p>U.S. House of Representatives</p> <p>U.S. Immigration and Customs Enforcement</p> <p>U.S. Securities and Exchange Commission</p> <p>U.S. Senate</p> <p>U.S. Supreme Court</p>
<p>Illinois Sued Over Revised Pot Biz Licensing Scheme</p> <p>Illinois' newly revised licensing scheme for pot businesses is unconstitutional, an applicant has argued in a lawsuit alleging that a late change to the state's social equity regime is unfair and that its "discrimination" against out-of-state owners is a violation of the commerce clause.</p> <p><i>Complaint attached Read full article »</i></p> <p>EXPERT ANALYSIS</p>	<p>United States District Court for the District of Colorado</p> <p>United States District Court for the Western District of Oklahoma</p> <p>World Trade Organization</p>
<p>Opinion</p> <p>FTC Should Take Nuanced Approach On Noncompete Regs</p> <p>In response to President Joe Biden's recent executive order encouraging the Federal Trade Commission to regulate employer noncompete agreements, the agency should approach potential rulemaking with restraint by focusing on fair and transparent use of such agreements, says Russell Beck at Beck Reed.</p> <p><i>Read full article »</i></p> <p>Colo. Equal Pay Law Is Raising Job Post Hurdles Nationwide</p> <p>Because a compensation disclosure requirement in Colorado's new equal pay law also applies to businesses outside of the state with potential to hire remote workers who reside there, employers may want to consider several options to avoid compromising their proprietary payment schemes or methodologies in job ads, says Jonathan Israel at Foley & Lardner.</p> <p><i>Read full article »</i></p> <p>FINRA Shows Subtle Shift On Evaluating Best Execution</p> <p>McGuireWoods' Elizabeth Hogan and Alexander Madrid analyze the Financial Industry Regulatory Authority's recent notice on best execution and payment for order flow, identifying an isolated focus on price that pivots from prior guidance emphasizing a more holistic approach.</p> <p><i>Read full article »</i></p> <p>Questions To Ask After MedPAC Alternative Payments Report</p>	

The Medicare Payment Advisory Commission's recent report to Congress recommends streamlining the number of alternative payment models with less overlap to permit better evaluation of their success, but further detail is needed on various issues, such as which aspects of different models actually result in more savings and quicker payment, say attorneys at Foley & Lardner.

[Read full article »](#)

Series

Embracing ESG: Cigna Counsel Talks Employee Wellness

Building employee well-being into corporate environmental, social and governance priorities required our legal team to focus more closely on cross-functional collaboration within the company and increased communication with our board of directors and shareholders, says Julia Brncic at Cigna.

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LEGAL INDUSTRY

Girardi Warning Signs Slipped Through Legal Loopholes

Plaintiffs attorney Thomas V. Girardi escaped public discipline at the hands of the State Bar of California many times over four decades as clients alleged he stole millions of dollars from their settlements. How was he not held to account? This is the first in a series of stories examining his alleged misconduct and the system and culture that enabled it.

[Read full article »](#)

Judge Sets Discovery Rules In Jones Day Family Leave Suit

A Washington, D.C., federal judge overseeing a suit by two former Jones Day lawyers challenging the firm's parental leave policy has approved limits on who can access sensitive information shared during discovery, but denied the ex-associates' bid for a more expansive protective order.

[Read full article »](#)

Must-Join Texas Bar Won't Fight Ruling That Limits Lobbying

The Texas bar association said Monday it will not fight a recent Fifth Circuit finding that some of its legislative lobbying activities are "wholly disconnected" from attorney regulation and unconstitutional for a mandatory-membership state bar.

[Read full article »](#)

BigLaw Partners Among New Crop Of Mass. ACLU Directors

The Massachusetts chapter of the American Civil Liberties Union and its associated foundation have named a new slate of directors, including a former jurist of the state's top court and several partners from BigLaw firms.

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