

Amid Growing Scandal, MoFo Launches Investigation Into Partner Justin Fairfax

Virginia Lieutenant Governor Justin Fairfax – accused by two women of sexual assault – faces more than just official scrutiny over the allegations; because he’s a partner in Morrison & Foerster, he’s under investigation by his firm, too.

CNN [reports](#):

“Amid the allegations, Fairfax’s law firm told employees he is taking a leave of absence, according to an internal memo obtained by CNN. The memo states the firm of Morrison & Foerster, of which Fairfax is a partner, has retained outside counsel to conduct an investigation. ‘Justin has agreed to cooperate with the firm’s investigation,’ the memo states.”

Above the Law [reports](#) that Fairfax hired Beth Wilkinson of Wilkinson Walsh + Eskovitz after the first allegations of sexual assault surfaced.

Record Multimillion-Dollar

Settlement Reached for Susman Godfrey Partner's Traumatic Brain Injury

Seattle and its insurers have agreed to pay \$65.75 million to the family of Brooke Taylor, an amount representing the largest individual personal injury settlement in the city's history, likely the largest in Washington state and among the largest ever in the country, reports [Crosscut](#).

"The enormous sum is the result of a confluence of circumstances," explains Crosscut's [David Kroman](#). "Taylor was 38 at the time of the crash and in the early part of what was an already decorated career with the law firm Susman Godfrey as an intellectual property litigation attorney. When she was still working, she was being showered with praise, and several industry publications had counted her among the country's best lawyers."

Taylor has a full-time medical attendant and currently lives in an assisted-care facility near her family's home.

[Read the Crosscut article.](#)

DOJ Hiring Attorneys to

Handle Property Seizures for Border Wall

Politico [reports](#) that the Justice Department placed an online job posting for a pair of attorneys to tackle border wall litigation in South Texas – a sign of coming property seizures and other legal controversies that President Donald Trump anticipates if he plows ahead with his signature project.

Politico's [Ted Hesson](#) interviewed Chris Rickerd, the American Civil Liberties Union's senior policy counsel on border and immigration issues, who said the attorneys likely will deal with eminent domain property seizures and quarrels with landowners over what their land is worth.

The two advertised jobs, based in McAllen and Brownsville, will pay between \$53,062 and \$138,790, according to a posting to a federal jobs website.

[Read the Politico article.](#)

Border Wall Needs Private Property. But Some Texans

Won't Give Up Their Land Without a Fight.



Image by [U.S. Customs and Border Protection](#)

Government lawyers have taken the first step in trying to seize private property using the power of eminent domain to build a border wall – a contentious step that could put a lengthy legal wrinkle into President Trump’s plans to build hundreds of miles of wall, reports [The Washington Post](#).

Previous eminent domain attempts along the Texas border have led to more than a decade of court battles, some of which date to George W. Bush’s administration and have yet to be resolved, according to the *Post*’s [Katie Zezima](#) and [Mark Berman](#). Many landowners are vowing to fight anew.

The reporters quoted Gerald S. Dickinson, an assistant professor of law at the University of Pittsburgh, who said this newest fight will be different because the earlier effort mostly included federal government land.

“If it’s going to be a contiguous wall across the entire southwest border, you’re talking about a massive land seizure of private property,” he said.

[Read the Post article.](#)

Judge Rebukes DOJ, Says U.S. 'Laughable' for Using Shutdown to Delay Suit

A U.S. judge overseeing a veteran's multimillion-dollar negligence lawsuit in Puerto Rico rebuked the Justice Department for attempting to use the partial government shutdown to put the case on hold, calling the request "laughable," according to a Bloomberg Law [report](#).

Bloomberg's Erik Larson writes: "In a ruling denying the government's bid for more time, U.S. District Judge William G. Young said lapses in federal appropriations, like the current one triggered by President Donald Trump's demand for funding for a border wall with Mexico, aren't a government 'policy' that could theoretically justify staying such a lawsuit."

The judge decried "an abdication by the president and the Congress" of the duty to govern responsibly.

[Read the Bloomberg Law report.](#)

General Counsel Named in Corruption Probe Subpoenas Resigns

Cleveland.com [reports](#) that Emily McNeeley, general counsel for Cuyahoga County's troubled IT Department and one of several people named in subpoenas related to an ongoing corruption investigation, has resigned from her \$95,000-a-year job,

The county reported the resignation Tuesday, according to Cleveland.com's [Courtney Astolfi](#).

McNeeley was placed on unpaid leave in April after corruption investigators repeatedly named her, and her boss, IT Director Scot Rourke, in subpoenas served on the county. The cases refer to potential conflicts of interest, the report says.

[Read the Cleveland.com article.](#)

Federal Courts Run Out of Cash Next Friday. Here's What

Happens Then

Bloomberg Law [reports](#) that companies that turn to the federal courts to resolve fights with rivals and customers may find themselves in limbo if the government shutdown continues beyond next week.

The system can spend money left over from fees and other sources to run through Jan. 11, writes Bloomberg's Erik Larson.

"After that, nonessential workers at the 94 federal district courts, and at higher courts across the country, may have to stay home even as skeleton crews show up—without pay—to handle matters deemed essential under U.S. law, including many criminal cases," Larson explains.

Individual courts and judges then will decide how to fulfill those critical functions.

[Read the Bloomberg Law article.](#)

In 8-Month Tenure, Non-Elected NY AG Was Leading Trump Antagonist

Barbara Underwood was an apolitical force in New York, quietly serving as solicitor general before getting an unexpected

promotion to become the state's first female attorney general, writes the [Associated Press](#).

In her eight months in the AG's role, she sued to put President Donald Trump's charitable foundation out of business, accusing him of running it as a wing of his private businesses and political campaign. She also used the courts to challenge his administration on a multitude of policy fronts, including opposing its push to add a citizenship question to the 2020 census.

Underwood was appointed attorney general by the state legislature in May after the surprise resignation of Eric Schneiderman, explains AP's Michael R. Sisak.

Now she's going back to the solicitor general's office, but Trump still [faces challenges](#) from New York, from the new AG, Letitia James.

[Read the AP article.](#)

Complaints Against Kavanaugh Dismissed Because He's No Longer Covered By Misconduct Rules



Justice Brett
Kavanaugh

CNN [reports](#) that a U.S. judicial council on Tuesday dismissed 83 complaints that had been lodged against new Supreme Court Justice Brett Kavanaugh, arising largely from statements he made during his contentious September confirmation hearings.

“In a 10-page order, the judicial council of a Denver-based US appeals court said the complaints – the first of which were referred to the court by Chief Justice John Roberts on October 10 – could not be acted on because Kavanaugh, as a justice, is no longer covered by the judiciary’s misconduct rules,” explains CNN’s [Joan Biskupic](#).

“The allegations contained in the complaints are serious,” the order noted, “but the Judicial Council is obligated to adhere to the Act. Lacking statutory authority to do anything more, the complaints must be dismissed because an intervening event – Justice Kavanaugh’s confirmation to the Supreme Court – has made the complaints no longer appropriate for consideration under the Act.”

[Read the CNN article.](#)

Judge Who Tossed Obamacare Has Had More Than His Share of Contentious, High-Profile Cases

Given U.S. District Judge Reed O'Connor's previous decisions halting Obama administration policies, few legal observers were surprised when the conservative judge issued a ruling that declared the Affordable Care Act unconstitutional because of a recent change in federal tax law, [reports](#) *The Dallas Morning News*.

Reporter [Kevin Krause](#) quotes Josh Blackman, a law professor at South Texas College of Law in Houston: "Without question, Judge O'Connor has had a fairly high-profile docket, in that he gets a lot of these hot-button issues."

The Texas attorney general has filed such cases in the Fort Worth and Wichita divisions of the Northern District of Texas because Paxton knows "with a high degree of certainty" they will wind up in O'Connor's court, Blackman said.

"He has become a go-to judge for Republicans over certain heated national social issues such as health care and transgender rights," Krause writes.

[Read the *Morning News* article.](#)

Local Taxation of Oil and Gas Activities Fails Again



The Texas Supreme Court issued four opinions addressing the taxation of compressors used to deliver natural gas into pipelines, according to a post on Gray Reed & McGraw's [Energy & the Law](#) blog.

[Charles Sartain](#) and [Isreal Miller](#) introduce a discussion of the rulings:

“Local taxing authorities frequently look to out-of-towners to bear what the locals consider the outsiders’ fair share of the burdens of increased oil and gas activity. The counties are often small and rural. (See the Dimmit County road tax). You can’t blame them, but Reeves County (county seat: Pecos, 2010 pop. 13,783), Loving (county seat: Mentone, 2010 pop. 1,340), and Ward (county seat: Monahans, 2010 pop. 10,658) have been reminded by the big guys and gals in Austin that these efforts are not likely to succeed. It didn’t work for Huey Long and it isn’t working well now.”

[Read the article.](#)

Federal Judge – Deemed ‘Unqualified’ – Becomes First in U.S. History Confirmed By Senate Tiebreaker

CBS News [reports](#) that a federal judge nominee who the American Bar Association deemed “not qualified” for the bench has become the first in U.S. history to be confirmed by the Senate with a tie-breaking vote from the vice president.

Vice President Mike Pence cast the deciding vote in favor of Jonathan Kobes after senators split 50-50 on his confirmation to the 8th Circuit Court of Appeals. Kobes is a lawyer from Sioux Falls, South Dakota.

The American Bar Association gave Kobes a “not qualified” rating, saying he had shown “neither the requisite experience nor evidence of his ability to fulfill the scholarly writing required of a United States Circuit Court Judge.”

[Read the CBS News article.](#)

Incoming New York AG Plans

Wide-Ranging Investigations of Trump and Family



Letitia James

Image by

[Thomas Good](#)

NBC News [is reporting](#) that New York Attorney Gen.-elect plans to launch sweeping investigations into President Donald Trump, his family and “anyone” in his circle who may have violated the law once she settles into her new job next month.

“We will use every area of the law to investigate President Trump and his business transactions and that of his family as well,” James, a Democrat, told NBC News in her first extensive interview since she was elected last month.

NBC reporter writes that James campaigned on passing a bill to change New York’s double jeopardy laws with an eye on possible pardons coming out of the White House. That change would allow her to pursue state charges against anyone the president were to pardon over federal charges or convictions and whose alleged crimes took place in the state.

[Read the NBC News article.](#)

Supreme Court Suggests Forcing Lawyers to Pay Bar Association Dues Violates Their Free Speech

The U.S. Supreme Court may be on verge of upsetting the longstanding system of states requiring lawyers to pay dues to bar associations, [reports](#) the *Los Angeles Times*.

At least 30 states require the dues, in most cases with bar associations regulating the legal profession by licensing lawyers and disciplining those who violate the rules. Lawyers in turn are required to pay dues to cover the cost, explains the *Times*' [David G. Savage](#).

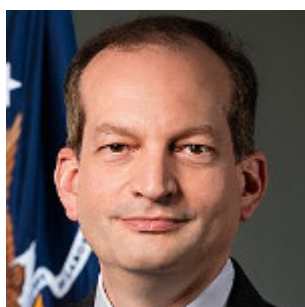
Savage writes:

“In a brief order on Monday, the court overturned a ruling last year by the U.S. 8th Circuit Court of Appeals that had upheld mandatory bar dues in North Dakota and sent the case back “for further consideration in light of *Janus*.”

In *Janus v. AFSCME*, the court last June struck down state laws in California and elsewhere that required teachers and other public employees to pay fees to support a union.

[Read the *LA Times* article.](#)

Newspaper Report Foils Trump Labor Secretary's Chances of Being the New AG



Labor Secretary Alexander Acosta is out of the running to be President Donald Trump's attorney general following a [Miami Herald](#) report that he oversaw a sweetheart deal for a wealthy financier accused of sexually abusing dozens of underage girls, according to two people close to the president.

Acosta was a federal prosecutor in Florida before going to Washington, the two advisers said.

Herald report Anita Kumar explains:

The investigation, which reported that Acosta, then U.S. attorney, cut a secret deal to allow billionaire Jeffrey Epstein to serve only 13 months in a county jail, is "clearly something" that is being widely circulated among Trump aides, one of the people said. The agreement "essentially shut down an ongoing FBI probe" and granted immunity to "any potential co-conspirators," according to the story.

[Read the *Miami Herald* article.](#)

Controversial Trump Judicial Nominee in Peril of Senate Defeat

NBC News is [reporting](#) that a controversial judicial nominee is in danger of being derailed in the U.S. Senate because of objections over his past work defending state laws viewed as discriminatory and senate leadership's refusal to vote on legislation aimed at protecting special counsel Robert Mueller's Russia investigation.

NBC reporters Leigh Ann Caldwell and Frank Thorp V explain: "Thomas Farr, President Donald Trump's nominee to be a U.S. District Court judge for the Eastern District of North Carolina, has come under fire because of his work on cases that Democrats say have disenfranchised African Americans from voting. That issue has at least one GOP senator, Tim Scott of South Carolina, undecided on whether to support Farr's confirmation."

And Republican Sen. Jeff Flake of Arizona is blocking all judicial nominees, including Farr's, until GOP leaders agree to hold a vote on a bill to put up guardrails against any threat of Trump firing special counsel Robert Mueller.

[Read the NBC News article.](#)

Attorney's Eye-Popping \$460,000 in Earnings to Defend Indigent Clients Prompting Changes

A Texas county is adding more controls after fees to an attorney representing indigent clients this past fiscal year topped \$460,000 – more than double the amount of any other court-appointed lawyer in Collin County, [reports](#) *The Dallas Morning News*.

Attorney Marc Fratter, 46, also earned significantly more than anyone on the county payroll, including the district judges who approved his pay sheets, according to reporter [Valerie Wigglesworth](#).

“Fratter said he put in long hours – billing as much as 100 hours a week at times – with his one-man firm handling the workload of as many as six attorneys. He pointed to judges’ signatures on all of his pay sheets. “I’m not hiding anything,” he said.

[Read the Dallas News article.](#)

Katie Ashley Joins Bradley as Senior Advisor for Government Affairs

Katie Ashley, former director of legislation for Tennessee Gov. Bill Haslam, has joined Bradley Arant Boult Cummings LLP's Nashville office as a senior advisor in Bradley's Government Affairs and Economic Development practice groups.

"We are thrilled to welcome Katie to our firm as a senior advisor on diverse government affairs and economic development issues," said Bradley Managing Partner and Chairman of the Board Jonathan Skeeters. "Katie's experience and wealth of knowledge gained during her long tenure as a key official in the Tennessee governor's administration will be great assets to our clients."

In a release, the firm said Ashley represents clients before the executive and legislative branches of government in Tennessee and Washington, D.C., helping to develop successful strategies for achieving clients' business goals.

As the chief legislative executive for Haslam, Ashley advised the governor, his senior staff and 23 department commissioners on political strategy and legislative affairs. The Office of the Governor's press release states that during her eight-year tenure with the Haslam administration, Ashley played an essential role in budget matters and policy development that led to Tennessee being recognized as a national leader in education, economic development, efficient and effective government, and fiscal strength. Among her achievements, Ashley helped launch the Drive to 55 initiative, with the goal to increase to 55 percent the number of Tennesseans with a postsecondary degree or credential by the year 2025 to meet future workforce demands. Ashley's legislative efforts also

helped Tennessee become the first state in the nation to offer high school graduates a chance to earn a certificate or degree beyond high school free of charge and with a personal mentor.

Previously, Ashley worked for U.S. Sen. Lamar Alexander in Washington, D.C.

Ashley received her Bachelor of Arts (cum laude) from the University of Tennessee at Martin, and is not an attorney.

2018 Eastern District of Texas Bench Bar Conference Sets Attendance Record



The Eastern District of Texas [Bench Bar Conference](#) set a new attendance record this year with more than 450 attendees gathering in Plano, Texas, for three days of programming and panel discussions focused on the diverse legal cases handled by the U.S. District Court for the Eastern District of Texas.

Andrei Iancu, U.S. Secretary of Commerce for Intellectual Property and Director of the U.S. Patent and Trademark Office, delivered a major policy address during the event.

Iancu's speech at the Inaugural Texas Dinner in Honor of the Judiciary and 7th Amendment was reported by many media outlets as a push back against the "patent troll" narrative that has

encircled America's intellectual property system for more than a decade.

[Read details about the conference.](#)

Jackson Walker Lawyers Offer Election Day Assistance to Reporters Covering Voting

First Amendment lawyers with [Jackson Walker LLP](#) are assisting the Reporters Committee for Freedom of the Press with challenges journalists may face at polling places on Election Day.

“There are very specific restrictions in all states regarding access to polling places, and some polling officials may overreach – beyond what the law allows – in trying to keep reporters away,” said [Joshua Romero](#), one of the lawyers providing legal guidance.

“In Texas, a person may not use a cell phone, camera or other recording device within 100 feet of polling places. However, the Texas Secretary of State has adopted a policy of permitting ‘non-disruptive’ exit polling within the 100-foot protected area,” Romero said.

“Also, ballot selfies that include a photo of a voter or

journalist with a completed ballot have been a hot topic at times," he said. "All of these issues involve First Amendment rights that courts across the country have struggled to address."