

Another Client Close to Firing Boies After Weinstein Revelations

Now even a pro bono client feels compelled to fire David Boies after revelations of the famed litigator's role in attempting to hide Harvey Weinstein's alleged history of sexual harassment and assault.

The *Tampa Bay Times* [reports](#) that the City of St. Petersburg, Florida, is heading toward ending its relationship with Boies.

[Charlie Frago](#) writes that Boies and his firm Boies Schiller Flexner had offered their services to the city in a challenge to *Citizens United v. Federal Elections Commission*, the 2010 U.S. Supreme Court ruling that removed restrictions on how much outside groups can spend on elections.

One city council member reacted to the revelations of Boies' actions: "I find this reprehensible and will absolutely NOT vote to accept Boies' offer to represent the city of St. Petersburg pro bono on the campaign finance issue."

[Read the Tampa Bay Times article.](#)

Wall Street Penalties Have Fallen in Trump's First Year, Study Says



Jay Clayton

In its latest fiscal year, Wall Street's top regulator sought the smallest amount of penalties since 2013, a drop that took place as the agency went months without permanent leadership and could show a softer approach to policing wrongdoing, [Bloomberg reports](#).

"The U.S. Securities and Exchange Commission tried to obtain \$3.4 billion in fines and disgorgement from companies and individuals during the 12 months ended in September, according to data collected by Urska Velikonja, a Georgetown University law professor," write reporters [Matt Robinson](#) and [Benjamin Bain](#). "The SEC filed 612 enforcement cases, also the fewest in four years, Velikonja's research shows."

Velikonja points out that since Jay Clayton – the former Wall Street deals lawyer appointed by Trump – took over as SEC chair in May, the agency has pursued just two sanctions against large financial firms. But in the same period a year earlier, more than a dozen big financial companies faced SEC sanctions.

[Read the Bloomberg article.](#)

Here's How Trump Is Rapidly Reshaping the Judiciary

[The New York Times](#) lays out the plan the Trump team devised to fill the federal appeals courts with young and deeply conservative judges – a strategy that has started to show results.

Reporter [Charlie Savage](#) describes the plan: “Start by filling vacancies on appeals courts with multiple openings and where Democratic senators up for re-election next year in states won by Mr. Trump – like Indiana, Michigan and Pennsylvania – could be pressured not to block his nominees. And to speed them through confirmation, avoid clogging the Senate with too many nominees for the district courts, where legal philosophy is less crucial.”

He predicts that the consequence of the transformation of the judiciary will yield an appellate court system as ideologically split as Congress is today, after the Democrats regain power and use the same playbook.

[Read the NYT article.](#)

AT&T Would Win a Fight With DOJ Over Time Warner Deal, Analyst Says

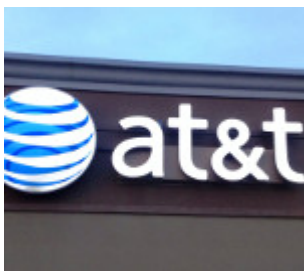


Image by [Mike Mozart](#)

AT&T and the Justice Department could be on their way to a major court battle, which one analyst believes the company stands a strong chance of winning, [CNBC reports](#).

AT&T's wants to acquire Time Warner, but the government wants the company first to sell Turner Broadcasting, which includes CNN, or sell DirecTV. The company has made it clear that it has no intention of selling any of those assets.

"If this does go to court, we think AT&T holds a strong position and would likely prevail," Paul Gallant, a Washington analyst at Cowen Research, said Thursday in a note to clients.

CNBC reporter [Jeff Cox](#) writes that Cowen believes the company has three advantages that would give it an edge in its fight with the DOJ.

[Read the CNBC article.](#)

GCs Taking the Heat in Congressional Grilling of Social Media Giants

The top Democrat on the Senate Intelligence Committee berated lawyers for social media giants Facebook Inc., Twitter Inc. and Google for a lethargic response to Russian interference in U.S. politics, as the companies' lawyers faced a second day of grilling in Congress, [reports Bloomberg](#).

Updating its coverage Wednesday morning, Bloomberg reports:

“Your first presentations were less than sufficient,” [Sen.] Mark Warner said at the panel’s hearing Wednesday, saying lawmakers were at first “blown off” by companies that in effect said, “Nothing like this happened. Nothing to see here.”

Warner chided Facebook General Counsel Colin Stretch for his “I will have to come back to you on that, sir” reply to a question on cross-checking fake accounts.

“We’ve had this hearing scheduled for months,” Warner of Virginia replied. “I find your answer very, very disappointing.”

The Associated Press reported on Tuesday’s grilling of the companies’ top lawyers: [“Senators blast Facebook, Twitter, Google in Russia probe.”](#)

[Read the Bloomberg article.](#)

Mueller Pierced Manafort's Attorney-Client Privilege Once, May Try the Tactic Again



Paul Manafort

Image by [Disney | ABC Television Group](#)

A little-noticed court filing unsealed this week as part of special counsel Robert S. Mueller III's ongoing probe could have big consequences for his other targets – showing he's willing to use suspects' lawyers to provide evidence against them, according to [The Washington Post](#).

An opinion by U.S. District Court Chief Judge Beryl A. Howell found that one of Manafort's former lawyers could be compelled to testify to the grand jury. She found a "crime fraud" exception to the attorney-client privilege, writing:

When a person uses the attorney-client relationship to

further a criminal scheme, the law is well established that a claim of attorney-client or work-product privilege must yield to the grand jury's investigatory needs.

[Above the Law reports](#) (sourcing the National Law Journal) that the attorney in question is Melissa Laurenza, partner at Akin Gump Strauss Hauer & Feld whose practice focuses on campaign law and lobbying registration.

[Read the *Washington Post* article.](#)

[Why Roy Moore's Law-School Professor Nicknamed Him 'Fruit Salad'](#)

Former law school classmates and professors of Roy Moore – the candidate likely to become the next U.S. senator from Alabama – shared stories with [The New Yorker](#) about the student who one professor nicknamed “Fruit Salad.”

That student went on to become chief justice of the Alabama Supreme Court but was removed twice for violating the Alabama Canons of Judicial Ethics.

Writer [Charles Bethea](#) quotes one former Moore classmate: “I remember our constitutional-law professor really ripping Roy apart using the Socratic method and thinking, in retrospect, ‘I can't believe this man went to West Point.’ Because you kind of think that you have to be smart to go to West Point.”

And Julia Smeds Roth, a partner at the law firm Eyster Key, in Decatur, said : “He’d go to class, but he was argumentative, very stubborn, and not very thoughtful in his analysis of the cases. He was not a very attentive student. For the most part, students didn’t respect him much.” She added, “Of all my classmates, he was the least likely I’d think would become a U.S. senator.”

[Read The New Yorker article.](#)

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[First Amendment Lawyer: Courts Should Protect Media from Trump Threats](#)

President Donald Trump’s threats against NBC for news coverage he didn’t like are not unprecedented, says Dallas First Amendment lawyer [Paul C. Watler](#) of [Jackson Walker LLP](#).

On Wednesday, after NBC reported that sources said Trump raised the idea of increasing the U.S. nuclear arsenal, the president tweeted: “With all of the Fake News coming out of NBC and the Networks, at what point is it appropriate to challenge their License? Bad for country!”

“There is a long history of American presidents criticizing

the coverage they receive in the press,” said Watler. “There is an equally long history of American journalists doing their jobs despite presidential disfavor.

“A few presidents, most notoriously Richard Nixon, actually attempted to turn their dislike of the media into official retaliation by government agencies or regulators. But those vengeful efforts at official harassment were abject failures.

“The First Amendment guarantee of freedom of the press stands as a fundamental bar to the type of vindictive action that the current president seems to contemplate or encourage. As long as we have federal judges who are true to their oaths to uphold the Constitution, media organizations should be protected from efforts to intimidate or subvert independent news reporting.”

Watler, a commercial litigator, has represented numerous news media organizations over the years in First Amendment and libel matters.

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[Trump's Legal Team Isn't Playing Well Together](#)

Tensions have been building since lawyer Ty Cobb joined the White House legal team last summer to deal with the Russia investigation, reports [Bloomberg Law](#).

At first, the cracks in the team showed up when Cobb tried to use some lawyers from the staff of White House counsel Donald McGahn. McGahn didn't cooperate with that plan, so Cobb had to build a team from scratch, report Tom Schoenbert and Shannon Pettypiece.

"While Cobb seeks to have the probe resolved as quickly as possible, McGahn wants to cooperate with Mueller while ensuring that decisions made now don't box in Trump down the road or bind future presidents, says a person familiar with the investigation. McGahn's lawyer, William Burck, says his client hasn't tried in any way to block Cobb's efforts," the reporters write.

[Read the Bloomberg article.](#)

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[**'It Will Be Momentous':
Supreme Court Embarking on
New Term**](#)



When the U.S. Supreme Court begins its new term Monday, it will take up a docket filled with some of the moment's most contentious issues: voting rights, religious liberty, protection from discrimination, and privacy in an increasingly monitored society, reports [The Washington Post](#).

Reporter [Robert Barnes](#) quotes Justice Ruth Bader Ginsburg, who told Georgetown University law students recently: "There is only one prediction that is entirely safe about the upcoming term, and that is: It will be momentous."

He lists three cases that will get the most attention:

- * Whether the court for the first time will find that a state's electoral districts were gerrymandered with such a partisan skew that they violate the Constitution.
- * Whether prosecutors must seek a judge's permission before securing cellphone tower records that contain months of details about a person's whereabouts.
- * Whether a wedding vendor whose religious beliefs do not condone same-sex marriage must comply with a state law that prohibits discrimination based on sexual orientation.

[Read The Washington Post article.](#)

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[Tree Trimming Firm Pays Biggest Fine in U.S. Immigration Case](#)

A tree trimming company has been handed the largest penalty imposed in a United States immigration case, totaling \$95 million, after pleading guilty to employing illegal immigrants, the U.S. Attorney's Office said.

[Reuters reports](#) that Asplundh Tree Experts Co., which trims trees and clears brush for power and gas lines across the country, hired employees who provided fake identification documents from 2010 to 2014, the U.S. Attorney's Office in Philadelphia said.

The prosecutor said the company's managers were "willfully blind" as supervisors and foremen hired illegal immigrants, writes [Brendan O'Brien](#).

[Read the Reuters article.](#)

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[What Every In-House Attorney](#)

Needs to Know About Federal Contracting

Centre Law & Consulting will present a [one-day instruction](#) that combines the basics of federal government contracting with the nuts and bolts of compliance issues, subcontractor issues, and hot topics in the industry.

The event will be Oct. 17, 2017, in Tysons, Va.

Topics will include:

- Basic Principles in Federal Contracting
- How the Government Buys
- Types of Contracts
- Labor and Employment Law Issues
- Anti-Kick Back and Gifts
- Organizational Conflict of Interest & Personal Conflict of Interest
- Mandatory Disclosure and Ethics Issues
- Changes, Inspection & Acceptance
- Delays & Payment
- Termination of Convenience / Termination of Default
- Claims, Disputes, and Appeals
- Prime/Subcontractor Disputes
- Bid Protests
- Privilege Issues and Attorney Work Product
- Ethic Issues in Internal Investigators and Managing Relator Lawsuits

[Register for the event.](#)

Big New York Law Firm Faces Questions on Work With Manafort



Image by [Disney | ABC Television Group](#)

The Justice Department recently asked law firm Skadden, Arps, Slate, Meagher & Flom for information and documents related to its work on behalf of a client of Paul Manafort, reports [The New York Times](#).

That client, Viktor Yanukovich, the Russia-aligned president of Ukraine, needed some cover to justify the jailing of a political rival, according to reporters [Kenneth P. Vogel](#) and [Andrew E. Kramer](#).

They explain:

The request comes at a time when Mr. Manafort, his work for Mr. Yanukovich's party and for Russian and Ukrainian oligarchs as well as the handling of payments for that work have become focal points in the investigation of the special counsel, Robert S. Mueller III, into Russian meddling in the 2016 presidential election, and connections between Russia, Mr. Trump and his associates.

[Read the NYT article.](#)

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[Register for the Healthcare Enforcement Compliance Institute](#)

The [Healthcare Compliance Institute](#) is scheduled for Oct. 29-Nov. 1 in Washington, DC.



The event will give participants the opportunity to go beyond legal analysis, learn how to implement systems that ensure the law is followed, and gain practical advice from experts in a one-of-a-kind forum where lawyers and compliance officers work together, according to the Health Care Compliance Association.

Some of the topics to be covered include:

- Are We Ineffective at Assessing Compliance Program Effectiveness or Are Industry and Government Using Different Standards?
- Handling a Criminal Healthcare Fraud Case
- Tips and Tools for Mitigating CMS Enforcement Actions
- Using Data and Statistics to Defend Against Health Care

Enforcement

- Your Company Has Been Served with a Civil Investigative Demand: Now What?
- Managed Care Fraud Enforcement & Compliance

[Register or get more information.](#)

[How Supreme Court Justices Could Avoid Issuing a Verdict on Trump's Travel Ban](#)



President Donald Trump's travel ban offers the Supreme Court the chance to make a major pronouncement on the president's power over immigration. But the case also could vanish into the legal ether, and that may be what a majority of the court is hoping for, [points out](#) Associated Press reporter Mark Sherman.

"Getting rid of the case would allow the justices to avoid second-guessing the president on a matter of national security or endorsing an especially controversial part of Trump's agenda," Sherman writes.

The timing of the ban could help the justices avoid a showdown because the 90-day travel ban on visitors from six mostly Muslim countries will expire before the court will hear the challenge.

[Read the AP article.](#)

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[Ethics Expert on Trump Lawyer's Steakhouse Disclosures: He Blew It](#)

“Incompetent,” “unethical” and “bizarre” were some of the words lawyers and ethics experts [used](#) to characterize a loud, public conversation Trump lawyer Ty Cobb had in a restaurant about the Russia investigation.

Bloomberg Law reported that when Cobb joined President Trump's legal team in July, he was “intended to be traffic cop, enforcer of discipline” on the case. Then on Sunday a *New York Times* reporter revealed “he had overheard Cobb and Trump attorney John Dowd ‘casually and loudly’ discussing the investigation and Cobb's dispute with White House counsel Don McGahn while eating at a popular Washington, D.C. steakhouse.”

Bloomberg interviewed several ethics experts, one who said, “the failure to take precautions to protect client confidences violates lawyer ethics rules and can lead to discipline.”

[Read the Bloomberg article.](#)

[ADA Website Wars Coming to a Retailer Near You](#)

The Winn-Dixie grocery chain is the latest and perhaps highest-profile business to face penalties for websites that are not compliant with the Americans with Disabilities Act (ADA), but it's not likely to be the last, according to a post on the website of [Androvett Legal Media & Marketing](#).

A federal judge in Florida found that the grocery chain's website was inaccessible to visually impaired individuals and thus violated the ADA because features such as the website's online coupons and pharmacy could not be accessed using a screen reader. The court ruled in favor of the plaintiff on all issues and awarded injunctive relief and attorneys' fees.

The Americans with Disabilities Act prohibits discrimination on the basis of disability in public places, like stores and movie theaters. Increasingly, a battle has been brewing over whether or not websites for such "places of accommodation" must also be accessible.

"In Winn-Dixie's case, the court agreed that because its website was closely integrated with its stores, the web content must be accessible to the hearing and visually impaired," said employment attorney [Audrey Mross](#) of Dallas-based [Munck Wilson Mandala](#). "If consumer-facing businesses were not aware of ADA website compliance, this case should be an eye-opener."

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[Despite EPA's Insistence, Clean Power Plan Remains 'The Law Of The Land,' Democratic State Officials Insist](#)

The battle over the Clean Power Plan has intensified as Democratic state officials are publicly locking horns with Scott Pruitt, the head of the U.S. Environmental Protection Agency, over the legal advice that he has given to states that oppose the Obama-era carbon-cutting plan, [reports Forbes](#).

Ken Silverstein explains that in March Pruitt wrote a letter in which he advised the states that they do not have to meet the deadlines set by the Clean Power Plan that aims to cut CO2 emissions by 32% by 2030, from a 2005 baseline. But 14 state attorneys general disagree, saying the regulation remains in effect unless the courts would rule otherwise.

"The country is well on its way to achieving the desired outcome of the regulation: carbon emissions in this country have dropped from 6.13 billion metric tons in 2007 to 5.35 billion metric tons last year because natural gas is replacing coal-fired generation," writes Silverstein.

[Read the article.](#)

Church-State Debate Surfaces in Hurricane Harvey's Wake

“Hurricane Harvey didn’t cherry pick its victims, and FEMA shouldn’t cherry pick who it helps,” Washington, D.C. attorney Diana Verm [told the Houston Chronicle](#) this week.

In a post on the website of [Androvett Legal Media & Marketing](#), Verm, who specializes in religious liberty cases, is representing three small Texas churches who recently sued the Federal Emergency Management Agency, alleging the government’s disaster relief policy violates the Constitution by denying faith groups the right to apply for funds.

Texas nonprofits that sustained damage by the Category 4 hurricane have 30 days to apply for emergency cleanup grants. The Houston-area churches maintain they should be eligible since they have and continue to support victims of the devastating storm.

[David Coale](#), a Dallas appellate attorney who specializes in constitutional cases, says the complaint by the Rockport First Assembly of God in Aransas County, Harvest Family Church in Harris County and Hi-Way Tabernacle in Liberty County goes a step farther than previous similar cases by moving beyond exterior structures and building repairs into providing personal services.

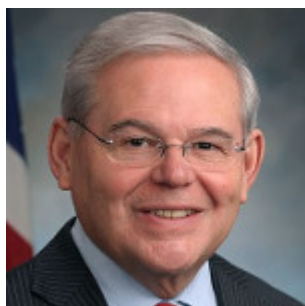
“On its face it’s a reasonable request – it’s a disaster and

they need all the help they can get,” Coale, a partner with [Lynn Pinker Cox Hurst](#), told the newspaper. “On the other hand, we are talking about giving people money to offer a place to sleep. There is stuff up in the church about religion and there will be people in the church providing a little bit of ministry.”

The Texas case comes three months after a U.S. Supreme Court ruling that prohibited government discrimination against a Missouri church that had applied for funding for playground equipment.

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[Federal Judge Excoriates Sen. Menendez Prosecution Team](#)



The judge overseeing the bribery trial of Sen. Robert Menendez ripped into prosecutors Thursday for trying to focus on what he called “tabloid” details – an unusual description for dry testimony about a series of emails about a hotel reservation, reports [The Washington Post](#).

“U.S. District Judge William Walls stopped testimony for 20 minutes in which he tongue-lashed prosecutors for their painstaking recounting of emails used to book a luxury hotel in Paris for the New Jersey Democrat in 2010,” writes reporter

[Devlin Barrett](#). “The three-day hotel stay is a central part of the Justice Department’s case.”

At one point, the judge sent the jury out of the courtroom and then began chewing out Justice Department lawyers.

“Whether these defendants engaged in bribery does not depend on whether the senator chose a more expensive room. We’re not talking about Days Inn,” he said.

[Read the *Washington Post* article.](#)

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