

# Nashville Attorney Confirmed As General Counsel for Department of Defense

*The Tennessean* [reports](#) that the U.S. Senate voted 70 to 23 on Thursday to confirm Paul Ney as the general counsel for the Department of Defense.

Ney, of Nashville, has worked for the past two years in the Tennessee attorney general's office where he currently serves as chief deputy attorney general. In that role, he coordinated and supervised legal work for all of the office's divisions, writes reporter Michael Collins

As Defense Department general counsel, he will be involved in issues involving personnel, conduct and other matters.

[Read the Tennessean article.](#)

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**Has the Government 'Waived'  
Goodbye to Strict Compliance  
with Your Contract**

# Specifications?

A recent Armed Services Board of Contract Appeals decision confirmed that waiver defenses can defeat government demands for strict compliance with contract requirements, reports [Cohen Seglias Pallas Greenhall & Furman](#).

Authors [Maria L. Panichelli](#) and [Alissandra D. Young](#) explain that the Board found in *Appeal of American West Construction, LLC* that the U.S. Army Corps of Engineers had effectively waived the right to enforce a construction contract specification.

“This meant that the government could not recover from the contractor the difference in the price it paid for the original specification and the lower amount spent by the contractor to perform the deviation,” they write. “In a world where the government often has the right to strictly enforce contract requirements and hold contractors financially responsible for any deviation, this decision is a big win for construction contractors.”

[Read the article.](#)

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## Democrats' Long-Shot Plan to Stop Trump's Supreme Court

# Pick

*The Los Angeles Times* [reports](#) that Democrats, though narrowly outnumbered in the Senate, are embarking on a Hail Mary campaign to block President Trump's pick for the U.S. Supreme Court.

Reporter [Sarah D. Wire](#) explains: "Flipping a moderate Republican is probably their only hope. And that only works if they can keep Democrats who represent red states that Trump won from breaking ranks."

Democrats are planning to stress Trump's repeated promises to only appoint justices who would overturn *Roe v. Wade*.

Wire quotes Brian Fallon, Hillary Clinton's former press secretary, who now runs the liberal advocacy group Demand Justice: "While these litmus-test-style commitments may have been politically sensible for Donald Trump at the time when he was running in the campaign in 2016, we believe they will come back to haunt his nominee in this summer's confirmation battle."

[Read the LA Times article.](#)

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**Halliburton Accused by**

# Government of Harassing Muslim Workers

Energy giant Halliburton failed to act as two Muslim workers in North Texas were regularly harassed about their religion by supervisors and co-workers, the federal government alleges in a lawsuit.

Bloomberg Law [reports](#) the Equal Employment Opportunity Commission alleges Hassan Snoubar and Mir Ali were harassed and otherwise discriminated against because of their national origin. Snoubar is from Syria, and Ali is from India. Both worked for Halliburton Energy Services Inc. as operator assistants, the EEOC says.

Reporter Patrick Dorrian writes: “The lawsuit continues the agency’s crackdown on employer practices or other workplace behaviors that target workers who are Muslim or Sikh, or of Arab, Middle Eastern, or South Asian descent. Eliminating such discrimination is one of the federal job rights watchdog’s top enforcement priorities.”

[Read the article.](#)

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## Former ICE General Counsel

# Heads to Prison for Identity Theft

Government Executive [reports](#) that a former top legal adviser to the Immigration and Customs Enforcement bureau was sentenced to 48 months in prison for wire fraud and identity theft affecting aliens, the Justice Department announced on Thursday.

Reporter [Charles S. Clark](#) writes that “Raphael Sanchez, 44, of the ICE Office of Principal Legal Advisor based in the Pacific Northwest, had pleaded guilty in February to running a scheme to defraud aliens in various stages of immigration removal by using their personally identifiable information to open lines of credit and personal loans in their names. He would then manipulate their credit bureau files, transfer funds to himself and purchase goods for himself using credit cards issued in their names, [the Department of] Justice said.”

Sanchez admitted to using the agency’s computer database as well as paper files to steal the personal information.

[Read the Government Executive article.](#)

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## Supreme Court Deals Big

# Setback to Public Unions

Conservatives on the Supreme Court said Wednesday that it was unconstitutional to allow public employee unions to require collective bargaining fees from workers who choose not to join the union, a major blow for the U.S. labor movement, reports [\*The Washington Post\*](#).

Reporter [Robert Barnes](#) writes that the 5-to-4 decision overturned a 40-year-old precedent and said that compelling such fees was a violation of workers' free speech rights. The old rule could force the workers to give financial support to public policy positions they oppose, the court said.

"States and public-sector unions may no longer extract agency fees from nonconsenting employees," Justice Samuel A. Alito Jr. wrote for the majority. "This procedure violates the First Amendment and cannot continue."

[Read the Post article.](#)

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## Supreme Court Poised to Rule on Trump Travel Ban, Union Fees, Other Cases

The U.S. Supreme Court, winding down its nine-month term, will issue rulings this week in its few remaining cases including a major one on the legality of President Donald Trump's ban on

people from five Muslim-majority nations entering the country, [reports Reuters](#).

“The nine justices are due to decide other politically sensitive cases on whether non-union workers have to pay fees to unions representing certain public-sector workers such as police and teachers, and the legality of California regulations on clinics that steer women with unplanned pregnancies away from abortion,” write [Lawrence Hurley](#) and [Andrew Chung](#).

On the subject of collecting fees for union from non-members, the court’s conservatives indicated opposition during arguments on Feb. 26 to so-called agency fees that some states require non-members to pay to public-sector unions.

[Read the Reuters article.](#)

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## **Federal Suit Claims Systemic Failures to Pursue Rape Cases by Travis County DA, Austin Police**

Three women have filed a federal class action lawsuit claiming that the Travis County District Attorney’s office and the Austin Police Department have violated the constitutional

rights of women and discriminated based on gender in the manner in which they handle sexual assault cases.

The lawsuit notes that while more than 1,000 women report a sexual assault to Austin police each year, the number of cases actually taken to trial annually are in the single digits, according to a post on the website of [Androvett Legal Media & Marketing](#).

The lawsuit alleges that Travis County DA Margaret Moore has ratified the discriminatory policies publicly, making statements that acquaintance rapes are really more “traumatic occurrences” than criminal acts. Moore has also indicated that the testing of the backlog of thousands of rape kits in Austin is for “informational purposes” and not for prosecution, confirming her office’s intent not to seek justice for those victims.

The lawsuit also notes that the Austin Police Department’s sexual assault unit at one time had a wall with photos of victims whose claims had been “debunked” by officers as “trophy of their investigations which determined allegations by purported victims were unsubstantiated.”

Finally, the lawsuit notes that while women make up 91 percent of sexual assault victims, the only case taken to trial in 2017 involved a male victim. In that instance, the Travis County Sheriff’s Office and the DA were aware of allegations by multiple women in previous years against the same perpetrator, but those cases were never prosecuted.

“[The] unconstitutional conduct by Defendants subjects both victims and all the women of Austin to continued risk at the hands of perpetrators who are never held accountable,” according to the complaint, filed in the U.S. District Court for the Western District of Texas. The lawsuit, which seeks class-action status, claims that the dominant culture and ongoing and historical failures by local law enforcement to



pursue sexual assault cases establishes a conspiracy to violate the civil rights of an estimated 6,000 sexual assault victims, while also violating their constitutional rights for equal protection.

“It is shocking that the vast majority of women who survive sexual assault are provided so little protection or recourse, and are essentially blamed for the refusal of law enforcement to seek justice in their cases,” says Jennifer Ecklund of [Thompson & Knight](#) and lead counsel for the plaintiffs. “Women go to authorities in order to seek justice and to protect other women, but the policies and practices of law enforcement instead re-traumatize survivors while allowing their attackers to walk free.”

The case is *Amy Smith, Julie Ann Nitsch and Marina Conner v. City of Austin, Travis County District Attorney Margaret Moore, Rosemary Lehmborg and Travis County, Texas.*

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## **Trump’s Lawyer Michael Cohen Expects to Be Arrested Any Day Now: Reports**

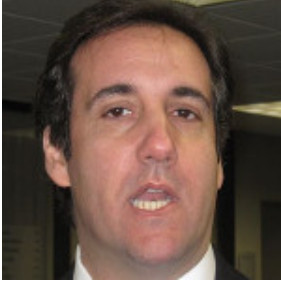


Image by  
[IowaPolitics.com](http://IowaPolitics.com)

President Donald Trump's long-time lawyer Michael Cohen has been telling pals he expects to be arrested soon, according to new reports Tuesday.

CNBC [reports](#) that a Vanity Fair article also quoted an ex-White House official saying that "Trump should be super worried about Michael Cohen" deciding to cooperate with federal prosecutors against the president.

"If anyone can blow up Trump, it's him," the source told Vanity Fair about Cohen, who is under criminal investigation by federal prosecutors in New York City.

Federal Judge Kimba Wood had given attorneys for Cohen and Trump until Monday to raise any objections they had to a special master's findings on whether seized documents were privileged. She later rejected their request to be allowed to file their objections under seal.

[Read the CNBC article.](#)

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# Defrauded Students of For-Profit Schools Will Stay Indebted, Judge Rules

Courthouse News Service [reports](#) that Education Secretary Betsy DeVos need not provide full debt relief to more than 60,000 defrauded students, but she must stop collecting on their loans, a federal judge said in court Monday.

A proposed class of borrowers had asked U.S. Magistrate Judge Sallie Kim to revive an Obama-era policy that promised full debt forgiveness to students defrauded by the now-defunct, for profit Corinthian Colleges, according to reporter [Nicholas Iovino](#).

Kim sided with the federal government's position that returning to the "status quo" means delaying processing claims for debt relief, not going back to the Obama-era policy of forgiving all loan debt. She acknowledged that borrowers will still suffer harm to their credit and interest growing on their loans, even though she has ordered the government to stop collecting.

[Read the CNS article.](#)

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# Texas Family Sues U.S. Over Church Massacre

Reuters [is reporting](#) that a couple whose nine relatives were among the 26 people fatally shot in a Texas church massacre in November has sued the U.S. government for \$50 million, saying its “institutional failures” played a part in the murders.

The lawsuit in federal court claims the U.S. Air Force acted negligently when it failed to report the criminal record of gunman Devin Kelley to a U.S. database, which could have prevented him from legally purchasing an assault rifle used in the killings, reports [Jim Forsyth](#).

He writes that legal experts have said the Air Force would not be able to claim federal immunity in the case, but cautioned any lawsuits faced a prolonged battle.

[Read the Reuters article.](#)

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**Nurse Practitioners,  
Physician Assistants Receive  
Class Action Status in VA**

# Overtime Suit

A federal judge has certified a class action lawsuit involving nurse practitioners and physician assistants accusing the U.S. Department of Veterans Affairs of failing to pay overtime since 2006, according to a post on the site of [Androvett Legal Media and Marketing](#).

Judge Elaine D. Kaplan of the U.S. Court of Federal Claims granted certification in an action brought by class representatives Stephanie Mercier, Audricia Brooks, Deborah Plageman, Jennifer Allred and Michele Gavin on behalf of nurse practitioners and physicians assistants at 85 different facilities across the country.

[Provost Umphrey](#) attorneys [Michael Hamilton](#) of the firm's Nashville office and [Guy Fisher](#) in the Beaumont, Texas, office are among the attorneys working on the lawsuit along with counsel [David Cook](#) and [Clement Tsao](#) of Cincinnati's [Cook & Logothetis, LLC](#), Douglas Richards of Lexington, Kentucky and [Robert Stropp](#) of Washington DC's [Mooney Green, P.C.](#)

"These health care professionals dedicate their time for the well-being of our veterans, and by law, are entitled to overtime when they are required to work beyond their work schedules," said Hamilton. "We believe this lawsuit to be critical for veteran patient safety and health. To expect these employees to work extended hours without overtime pay is wrong. With the class certification, we can now proceed onto the next step in this lawsuit."

The lawsuit seeks compensation for employees who worked overtime processing electronic and computer patient records using VA facility computers, VA laptops and sometimes personal computers, work that is critical to the medical treatment of patients. Nurse practitioners and physician assistants say the work is considered mandatory. Those who failed to complete the

assignments were subject to disciplinary measures for poor time management.

“I’m grateful that the judge agreed with us and certified the lawsuit as a class action,” said Cook. “It is wrong for any employer to expect people to work for free.”

Hamilton and Cook estimate that as many 10,000 VA employees could be represented in the class action lawsuit, according to the Androvett post.

The case is *Stephanie Mercier, Audricia Brooks, Deborah Plageman, Jennifer Allred, Michele Gavin v. The United States of America*, No. 1:12-cv-00920 in the U.S. Court of Federal Claims.

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## **Resigned Pruitt EPA Aide Lands GC Job in Oklahoma**

A former aide to embattled EPA director Scott Pruitt who has come under scrutiny for getting a significant pay bump has been hired to a position with the Oklahoma Workers’ Compensation Commission, reports [KFOR-TV](#).

The commission voted unanimously to hire Sarah Greenwalt as the agency’s new general counsel.

“Greenwalt made headlines after she received a 52 percent raise, bringing her salary to \$164,200 while at the Environmental Protection Agency before Pruitt reversed it amid

public outcry,” according to the report.

[Read the KFOR article.](#)

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# Federal Prosecutors Poised to Get More Than 1 Million Files Seized From Michael Cohen's Phones



Image by [IowaPolitics.com](http://IowaPolitics.com)

*The Washington Post* [is reporting](#) that federal prosecutors investigating President Trump's personal lawyer Michael Cohen are poised to receive on Wednesday 1 million files from three of his cellphones seized last month, according to a filing submitted to the court Tuesday night by special master Barbara Jones.

Jones said investigators have already been given access to

nearly 300,000 pieces of potential evidence seized from Cohen's office and residences in an April raid, according to reporters [Philip Bump](#) and [Mark Berman](#).

Cohen's attorneys initially said thousands of the seized documents might be covered by attorney-client privilege, but Jones noted that so far only 252 items have been flagged by Cohen's or President Trump's attorneys as privileged.

[Read the Post article.](#)

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## Government Disclosures Shed Light on Big Law Salaries



Law firm partnerships fiercely guard against disclosing what they pay their principals, points out [Bloomberg Law](#). But partners must disclose compensation when opting for a government appointment.

“Top partners at major law firms can earn between \$3 million to \$10 million, according to compensation experts, while even career government lawyers with long service records rarely make more than \$250,000,” writes reporter [Elizabeth Olson](#).

As an example, the article reports that Dan M. Berkovitz, a partner at Wilmer Cutler Pickering Hale and Door, listed \$1.18 million in partnership income for 2017 and a few months of 2018. Berkovitz was recently appointed one of the Commodity



Futures Trading Commission's commissioners.

And Robert Khuzami created waves a few months ago when he disclosed \$11.1 million in partnership income over about a year's period as a partner in Kirkland & Ellis's white-collar practice. He is a deputy attorney general in the Southern District of New York.

[Read the Bloomberg article.](#)

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## Make Releases Work for You in Government Contracting

[Michelle E. Litteken](#) of [Pilieromazza PLLC](#) writes that releases have proven to be the double-edged sword of government contracting.

“In some cases, a release can prevent a contractor from successfully submitting a request for equitable adjustment or a claim to the Government,” she explains. “At the same time, a prime contractor can use releases to its advantage—requiring a subcontractor to sign releases during performance and at contract closeout. These releases can be used to easily defeat subsequent subcontractor claims if a dispute arises. Contractors should be familiar with releases in both contexts and use this knowledge to make releases work to their advantage.”

[Read the article.](#)

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# A Lawyer for Payday Lenders Is Confirmed for FTC Job

The new director of the Federal Trade Commission's consumer protection unit, a watchdog with broad investigative powers over private companies, stands out even in an administration prone to turning over regulatory authority to pro-industry players, reports [The New York Times](#).

Andrew M. Smith was part of the legal team that in 2012 defended AMG Services, the payday lender founded by the convicted racketeer Scott Tucker, whose predatory practices against impoverished borrowers eventually led to a \$1.3 billion court-ordered settlement, the biggest in the commission's history, , according to reporters [Glenn Thrush](#) and [Jack Nicas](#).

Because of his representation of companies like Facebook, Uber and Equifax, banks, lenders and credit-reporting agencies – all companies with matters before the commission – he will have to recuse himself from dozens of cases.

[Read the Times article.](#)

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# Could the Sports Gambling Ruling Pave the Way for Other Legal Battles?

On Monday, the U.S. Supreme Court played the right card for sports gamblers as it ruled that a federal gambling statute known as the Professional and Amateur Sports Protection Act violated the Tenth Amendment of the Constitution, also called the commandeering clause. As explained in a post on the website of [Androvett Legal Media & Marketing](#), the decision gives states the authority to pass their own laws with regard to sports betting.

So what does the ruling mean for the future? Constitutional law attorney [David Coale](#) places his bet.

“There will be a lot of issues about the intellectual property of sports leagues and teams,” said Coale of the Dallas law firm [Lynn Pinker Cox & Hurst](#). “For example, a gambling company will naturally want to put the Cowboys logo in its ads; the Cowboys will want to stop that without control over the conditions of use and payment of a proper fee.”

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# Giuliani's Confusing Media Statements May Hurt His Business

The Associated Press [is reporting](#) that lawyer Rudy Giuliani's decision to join President Donald Trump's legal team could backfire on the former New York mayor if potential clients of his international consulting business view him as too erratic and go elsewhere for representation, according to legal experts.

Reporter Richard Lardner quotes Kathleen Clark, a law professor at Washington University in St. Louis: "Giuliani's television appearances do not inspire confidence in his ability as a lawyer or as a public relations professional." She said she could understand why the powerhouse law firm Greenberg Traurig, where Giuliani worked until last week, "would want to distance itself" from Giuliani's on-air performance.

Norm Eisen, who chairs the left-leaning Citizens for Responsibility and Ethics in Washington, commented: "It could be good for Giuliani's consulting and legal work if he were doing a better job. But no clients are going to be won over by the fact that he's implicated Trump."

[Read the AP article.](#)

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# AT&T CEO: Hiring Trump Lawyer Michael Cohen Was 'a Big Mistake'

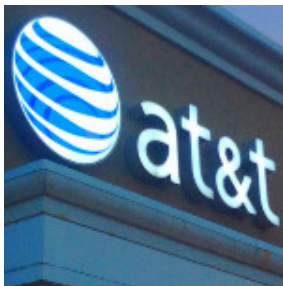


Image by [Mike Mozart](#)

AT&T's chief executive said Friday that the company made a "serious misjudgment" to seek advice from President Trump's personal attorney and announced that its top lobbying executive in Washington would be leaving the firm, reports [The Washington Post](#).

AT&T chief executive Randall Stephenson wrote in a companywide internal email that hiring Cohen "was a big mistake."

AT&T agreed to pay \$600,000 to Cohen last year in exchange for advice on dealing with the Trump administration. Internal AT&T documents outlined how Cohen was expected to provide guidance on matters facing the company at the Federal Communications Commission and the Justice Department, specifically mentioning AT&T's \$85 billion Time Warner merger, according to reporter [Brian Fung](#).

The executive who is leaving is Bob Quinn, AT&T's senior executive vice president of external and legislative affairs.

[Read the Post article.](#)

