

**From:** Trials Law360 <news@law360.com>

**To:** <[REDACTED]>

**Subject:** Texas Patent Judges Diverge On Pandemic Trial Protocols

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TRIALS

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Tuesday, October 13, 2020



## TOP NEWS

### Feature

#### [Texas Patent Judges Diverge On Pandemic Trial Protocols](#)

Two of the busiest patent judges in the country have taken different approaches to COVID-19 safety precautions as they've resumed in-person jury trials in Texas, with face-covering preferences and scheduling flexibility among the biggest points of contrast.

[Read full article »](#)

#### [J&J Opens Appeal By Assailing 'Radical' \\$465M Opioid Verdict](#)

Johnson & Johnson unleashed a sweeping assault on a historic judgment ordering it to pay \$465 million for sowing the seeds of narcotic painkiller addiction in Oklahoma, warning the state's high court that the ruling invites limitless litigation against major corporations for public health problems.

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

#### [Opioid MDL Bellwether Trial Delayed Amid COVID-19 Fears](#)

Amid coronavirus concerns, a West Virginia federal judge on Friday postponed an eagerly awaited bellwether trial in multidistrict opioid litigation shortly before its scheduled start, adding to a series of recent setbacks for local governments that blame drug companies for rampant addiction.

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

## INTELLECTUAL PROPERTY

#### [COVID-19 IP Catch-Up: Moderna Promises & Ed Sheeran](#)

In this round of intellectual property updates tied to the COVID-19 pandemic, Moderna said it would hold off on enforcing certain patents and Ed Sheeran said getting to the U.S. for a copyright trial may be impossible, among many other litigation updates.

[Read full article »](#)

## EMPLOYMENT & BENEFITS

#### [US, Ex-IBM Worker Ask DC Circ. To Revive Tipster Suit](#)

### [Law360 Rising Stars](#)

### LAW FIRMS

[Bangs McCullen](#)  
[Beck Redden](#)  
[Blank Rome](#)  
[Cleary Gottlieb](#)  
[Cooley](#)  
[Costello Porter](#)  
[Cozen O'Connor](#)  
[Cranfill Sumner](#)  
[Cravath Swaine](#)  
[DLA Piper](#)  
[Davis Polk](#)  
[Edinger Leonard](#)  
[Elliott & Smith](#)  
[Epstein Becker Green](#)  
[Faegre Drinker](#)  
[Fleming Nolen](#)  
[Florio Perrucci](#)  
[Fogler Brar](#)  
[Foliart Huff](#)

The U.S. government and a former IBM employee urged the D.C. Circuit during Friday oral arguments to revive a whistleblower suit claiming the company coerced the Internal Revenue Service into a \$265 million software deal.

[Read full article »](#)

## Jury Rejects EEOC Race Bias Suit Against BBQ Joint

A federal jury in North Carolina has said Joe's Old Fashioned Bar-B-Que Inc. was not responsible for a worker's "explosive outburst" and "racial comments" against a Black female co-worker, handing a loss to the U.S. Equal Employment Opportunity Commission.

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

## PRODUCT LIABILITY

### Texas Justices Bounce Back Fen-Phen Atty Malpractice Fight

The Texas Supreme Court on Friday said a lower court wrongly revived claims that an attorney improperly withheld a cut of a Fen-Phen settlement he secured for 4,000 former clients, saying the appellate judges' decision was based on an incorrect finding he had submitted unauthenticated copies of court records.

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

## COMPETITION

### Apple Can Keep Fortnite Banned From App Store For Now

Apple Inc. can keep Epic Games Inc.'s Fortnite video game out of its App Store but must allow Epic's affiliates access to developer tools for other applications ahead of a trial scheduled for next year, a California federal judge ruled in a mixed decision Friday.

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

## ENERGY & ENVIRONMENTAL

### Class Says Sunoco Rewriting History To Shake \$155M Ruling

Oklahoma royalty owners accused Sunoco of twisting facts in its attempt to get a redo after a federal judge found the company owes \$155 million to tens of thousands of class members for not automatically paying interest on late payments, in a blistering response to the company's motion for a new trial.

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

## PERSONAL INJURY & MEDICAL MALPRACTICE

### Analysis

### 5 Barrett Med Mal And Injury Rulings Attys Should Know

During her three-year tenure as a Seventh Circuit judge, U.S. Supreme Court nominee Amy Coney Barrett has shown a rigorously by-the-books approach to medical malpractice and personal injury cases, including on liability issues involving the use of excessive force by police that may one day come before the high court.

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

### Colo. Court Affirms \$54M Verdict In Bicyclist Crash Suit

A Colorado appeals court has upheld a \$54 million verdict for a cyclist who was hit by two cars, saying the defendant, a temp agency, forfeited a chance to cap the award under a state statute.

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

### Calif. Court Affirms \$2.7M Auto Collision Verdict

Freshfields

Gass Weber

Gibson Dunn

Goldstein & Russell

Gomez Trial Attorneys

Goodwin

Greenberg Traurig

Grubman Shire

Hogan Lovells

Hueston Hennigan

Irell & Manella

Jenner & Block

Kaufman Dolowich

Kirkland & Ellis

Latham & Watkins

Levy Firestone

Littler Mendelson

Lynn Jackson

Milbank LLP

Mintz Levin

Morgan Lewis

Morrison & Foerster

Motley Rice

Niddrie Addams

Nix Patterson

Norton Rose

O'Melveny & Myers

Odom Sparks

Orrick

Paul Hastings

Paul Weiss

Porzio Bromberg

Quinn Emanuel

Rumberger Kirk

Ryan Whaley

Seyfarth Shaw

Siebman Forrest

Skadden

Spencer Fane

Stoel Rives

Van Kampen Law

Wheeler Trigg

Whitten Burrage

Willkie Farr

WilmerHale

Winston & Strawn

Yetter Coleman

Yurko Salvesen

## COMPANIES

American Bar Association

A California appeals court has upheld a jury's \$2.7 million verdict in a suit accusing a motorist of causing a collision and a man's severe back injury, saying awards for pain and suffering and lost earnings were backed by substantial evidence.

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

## Firm Says Malpractice Suit Too Late Over Severed Leg Case

Florio Perrucci urged a New Jersey federal court Friday to toss an insurer's malpractice suit over firm attorneys' failure to assert certain immunity defenses on behalf of state agencies in litigation over a multivehicle collision that cost a woman her leg, saying the claims were filed too late.

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

## EXPERT ANALYSIS

### The Constitutional Risks In Pandemic-Era Criminal Jury Trials

Virtual voir dire and other pandemic-prompted modifications to jury selection risk curtailing the Sixth Amendment's guarantee that juries represent a fair cross-section of the community, making criminal convictions vulnerable to constitutional attack, say Karin Portlock and Vinay Limbachia at Gibson Dunn.

[Read full article »](#)

### Clients Have The Power To Promote Wellness At Law Firms

Law firm clients can play a role in lowering mental distress in the legal profession by seeking lawyer wellness data from firms and factoring those responses into outside counsel hiring decisions, says Jonathan Prokup at Cigna.

[Read full article »](#)

## LEGAL INDUSTRY

### Barrett Hearings Begin With Focus On ACA, Faith

U.S. Supreme Court nominee Amy Coney Barrett spent the first day of her confirmation hearings Monday listening as Democrats cast her as a threat to the Affordable Care Act and Republicans accused liberals of attacking her Catholic faith.

[Read full article »](#)

### Seyfarth Shaw Hit By Ransomware Attack

Seyfarth Shaw LLP confirmed Monday it had been hit by a cyberattack over the weekend, causing the firm to temporarily shut down some of its systems.

[Read full article »](#)

#### Analysis

### Beyond The Big Offer: Lateral Partner Pay Pitfalls To Avoid

Too many prospective lateral partners look only at a firm's offer figure, without considering numerous other factors needed to properly vet a compensation package before accepting a job, recruiters say.

[Read full article »](#)

### Stoel Rives, Mintz Levin Reverse Pandemic Pay Cuts

Stoel Rives LLP and Mintz Levin Cohn Ferris Glovsky and Popeo PC on Friday became the latest firms to confirm that they will restore salaries to pre-pandemic levels after several months of cuts.

[Read full article »](#)

### Willkie Hops On Fall Bonus Bandwagon As Other Firms Pass

American Civil Liberties Union

AmerisourceBergen Corp.

Apple Inc.

Association of Corporate Counsel

Baretz+Brunelle LLC

Bridgestone Corp.

Cardinal Health Inc.

Chambers and Partners

Cigna Corp.

Cisco Systems Inc.

Deloitte Touche

Epic Games Inc.

Finjan Holdings Inc.

Fordham University

Fox Corp.

Georgetown University

Google Inc.

II-VI Inc.

International Business Machines Corp.

Jaguar Land Rover Ltd.

Johnson & Johnson

Knights of Columbus USA Inc.

Los Angeles Angels of Anaheim

Los Angeles Rams

Major Lindsey & Africa LLC

McDonald's Corp.

McKesson Corp.

Microsoft Corp.

Moderna Inc.

Morgan Stanley

National Collegiate Athletic Association

National Employment Law Project

National Hockey League

New York University

New York Yankees

Noramco Inc.

Norfolk Southern Corp.

Pac-12 Enterprises LLC

Paypal Holdings Inc.

Pfizer Inc.

Purdue Pharma LP

Regeneron Pharmaceuticals Inc.

Roku Inc.

San Francisco 49ers

San Jose Sharks

SoFi Stadium

Social Finance Inc.

Sony Corp.

Southern Illinois Healthcare

Willkie Farr & Gallagher LLP confirmed Friday that it will be giving U.S. associates bonuses at the end of October, becoming the latest firm to match the pandemic-related bonuses set forth by Davis Polk & Wardwell LLP as others have announced their decisions not to follow suit.

[Read full article »](#)

## **Women GCs On When And How To Speak Out**

Mary Smith, vice chair and general counsel of the VENG Group, remembers several years ago when an outside counsel planned a dinner meeting with senior members of her then-legal department at a private club that did not allow women members.

[Read full article »](#)

## **In The Trenches Of Sports Law, It's All About The Pandemic**

Todd Davis, vice president for legal affairs for the NFL's Los Angeles Rams, said that in his 29 years with the team, he spent maybe 29 minutes on force majeure clauses — until this year's COVID-19 crisis.

[Read full article »](#)

## **600 Law Students Boycott Paul Weiss For Repping Exxon**

Law students on Friday afternoon delivered a letter to the Manhattan headquarters of Paul Weiss Rifkind Wharton & Garrison that was signed by over 600 law students pledging to boycott the firm over its continued representation of ExxonMobil.

[Read full article »](#)

## **Legal Recruiter Drops Fee Suit Against Freshfields**

A Massachusetts executive recruiting firm on Friday dropped its case that accused Freshfields Bruckhaus Deringer US LLP of refusing to pay millions of dollars in fees owed for its work recruiting a successful corporate law partner from Cleary Gottlieb Steen & Hamilton LLP.

[Read full article »](#)

### **Analysis**

## **Up Next At High Court: When A Shooting Becomes A 'Seizure'**

All eyes will be on Capitol Hill next week for Judge Amy Coney Barrett's confirmation hearings, but her would-be colleagues at the U.S. Supreme Court will be diving into a key civil liberties case involving the meaning of the word "seizure" under the Fourth Amendment and another involving debtors' rights.

[Read full article »](#)

## **Supreme Court Extends Phone Hearings Through December**

The U.S. Supreme Court said Friday it would continue holding oral arguments via phone through the end of the year because of the coronavirus pandemic, a period that includes blockbuster cases on the Affordable Care Act, the First Amendment and the special counsel's investigation.

[Read full article »](#)

## **GC Cheat Sheet: The Hottest Corporate News Of The Week**

Shoplet's former top attorney was sentenced to three to nine years in prison for stealing millions from the online retailer's PayPal account, and a survey found that the pandemic will likely force some law departments to eliminate or freeze merit increases in 2021. These are some of the stories in corporate legal news you may have missed in the past week.

[Read full article »](#)

## **In Case You Missed It: Hottest Firms And Stories On Law360**

For those who missed out, here's a look back at the law firms, stories and expert analyses that generated the most buzz on Law360 last week.

State Bar of California

Sunoco LP

Teva Pharmaceutical Industries Ltd.

The Aerospace Corp.

The Sports Lawyers Association

Thomson Reuters Corp.

VirnetX Holding Corporation

## **GOVERNMENT AGENCIES**

COPRAC

Centers for Disease Control and Prevention

Central Intelligence Agency

Equal Employment Opportunity Commission

Federal Bureau of Investigation

Internal Revenue Service

New Jersey Supreme Court

Occupational Safety and Health Administration

Office of Federal Contract Compliance Programs

Office of the Comptroller of the Currency

Oklahoma Supreme Court

Small Business Administration

Texas Supreme Court

U.S. Attorney's Office

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

U.S. Court of Appeals for the Seventh Circuit

U.S. Department of Justice

U.S. Department of Labor

U.S. Department of Veterans Affairs

U.S. District Court for the District of Massachusetts

U.S. District Court for the District of New Jersey

U.S. District Court for the Eastern District of New York

U.S. District Court for the Middle District of Alabama

U.S. District Court for the Middle District of Georgia

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

U.S. District Court for the Southern District of West Virginia

U.S. Senate

U.S. Supreme Court

[Read full article »](#)

[Podcast](#)

## Law360's Pro Say: The Road Ahead For Amy Coney Barrett

Supreme Court nominee Amy Coney Barrett heads to Capitol Hill next week for confirmation hearings that are likely to produce fireworks over health care, abortion and the Republican effort to seat a new justice on an expedited timeline as the November election looms. On the latest episode of Law360's Pro Say podcast, we provide a cheat sheet of what to expect from the hearings.

[Read full article »](#)

[United States District Court for the District of Colorado](#)

[United States District Court for the Eastern District of Oklahoma](#)

[United States District Court for the Northern District of Ohio](#)

## JOBS

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<b>Intellectual Property &amp; Technology Litigation Associate – MINNEAPOLIS - 2 to 5 Years of Experience</b> Robins Kaplan LLP Minneapolis, Minnesota	<b>E-Discovery Lead Review Attorney</b> Moore & Van Allen, PLLC Charlotte, North Carolina
<b>Staff Attorney, Petrochemicals</b> Earthjustice Washington, District of Columbia	<b>Big Law Partner w/ \$1-5M book for mid sized firm</b> Schoen Legal Search New York, New York
<b>Boutique LF w/ A++ clients seeks Big Law partners (NY)</b> Schoen Legal Search New York, New York	<b>NYC ELITE FULL SERVICE SMALL FIRM SEEKS PARTNERS</b> Schoen Legal Search New York, New York
<b>TEMP ON HOLD Elite multistate litigation boutique seeks multiple associates for NY office</b> Schoen Legal Search New York, New York	<b>Stellar New home for law partners recently turned out by current firm</b> Schoen Legal Search New York, New York
<b>Staff Attorney (Portland)</b> Duane Morris LLP Portland, Maine	<b>Health Care Litigator, Senior Associate or Counsel</b> Duane Morris LLP ~, ~

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