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Subject: Texas Patent Judges Diverge On Pandemic Trial Protocols

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 Law360 Trials

TRIALS

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Tuesday, October 13, 2020

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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
Foliat 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](#)

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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 »](#)

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Minneapolis, Minnesota

Staff Attorney, Petrochemicals

Earthjustice
Washington, District of Columbia

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partners (NY)**

Schoen Legal Search
New York, New York

**TEMP ON HOLD Elite multistate litigation
boutique seeks multiple associates for NY
office**

Schoen Legal Search
New York, New York

Staff Attorney (Portland)

Duane Morris LLP
Portland, Maine

E-Discovery Lead Review Attorney

Moore & Van Allen, PLLC
Charlotte, North Carolina

**Big Law Partner w/ \$1-5M book for mid
sized firm**

Schoen Legal Search
New York, New York

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SEEKS PARTNERS**

Schoen Legal Search
New York, New York

**Stellar New home for law partners recently
turned out by current firm**

Schoen Legal Search
New York, New York

**Health Care Litigator, Senior Associate or
Counsel**

Duane Morris LLP

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District of Colorado](#)

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

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

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