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Subject: Up Next At High Court: Census Brawl Dominates Busy Week
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APPELLATE

Monday, April 22, 2019

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TOP NEWS

Up Next At High Court: Census Brawl Dominates Busy Week

The Trump administration's attempt to put a citizenship question on the census is the most high-profile case at the Supreme Court this week, but the justices will also tackle issues affecting government contractors and Title VII plaintiffs as it closes out the final argument session of the 2018 term.

[Read full article »](#)

Analysis

Census Citizenship Question Case Likely To Turn On APA L

Attorneys anticipate that the question of whether Commerce Secretary Wilbur Ross violated the Administrative Procedure Act will take center stage during oral arguments at the U.S. Supreme Court on Tuesday, in a case challenging his decision to include a question about citizenship status on the 2020 census.

[Read full article »](#)

Analysis

Supreme Court To Mull Title VII's Presuit Hurdles

The U.S. Supreme Court on Monday will hear a Texas county's challenge to a Fifth Circuit decision letting a worker pursue a religious discrimination claim she didn't make to the U.S. Equal Employment Opportunity Commission first, a case that could resolve a circuit split over what workers have to do before bringing federal discrimination suits.

[Read full article »](#)

Analysis

High Court FOIA Case May Alter Labor Agency's Disclosures

The U.S. Supreme Court will hear arguments Monday about the standard for invoking a key exception to the Freedom of Information Act in a case that could make it harder for employers with federal contracts to keep the reams of data they send to the Office of Federal Contract Compliance Programs under wraps, experts say.

[Read full article »](#)

Analysis

6th Circ. Ruling Raises Bar For Social Media Terrorism Suits

The Sixth Circuit's recent dismissal of a suit blaming Facebook, Twitter and YouTube for radicalizing the man who carried out the 2016 mass shooting at the Pulse nightclub in Florida makes clear that such Anti-Terrorism Act suits have a slim chance of success.

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EFTA00032400

DC CIRCUIT

UPS Can't Reverse Pa. Facility's Unionization, DC Circ. Says

The D.C. Circuit on Friday rejected UPS Ground Freight Inc.'s effort to overturn the unionization of employees at a Pennsylvania distribution facility, ruling that the International Brotherhood of Teamsters and the National Labor Relations Board had followed all the rules for certifying the union.

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

DC Circ. Won't Nix OK Of \$500M Award Against Kazakhstan

Kazakhstan was unable to convince the D.C. Circuit on Friday that a lower court had wrongly refused to consider evidence that a half-billion-dollar arbitration award against it, which was issued to two Moldovan oil and gas investors, had been tainted by fraud.

[1 document attached](#) | [Read full article »](#)

Wireless Cos. Urge DC Circ. To Toss FCC's Verizon Fee Ruling

Two wireless providers jointly urged the D.C. Circuit on Friday to reverse a Federal Communications Commission ruling that the roaming rates Verizon charged to local carriers are reasonable, contending the rates aim to quash smaller competitors.

[1 document attached](#) | [Read full article »](#)

FEDERAL CIRCUIT

Fed. Circ. Says Court Wrongly Tossed \$7.5M IP Verdict

A Federal Circuit panel on Friday said a lower court wrongly threw out a \$7.5 million jury verdict against Novozymes A/S in a patent case over technology that helps with ethanol processing, deciding the district court erred when it found the patents were anticipated by an earlier invention.

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

Fed. Circ. Backs ITC In Roomba Co.'s Claim Construction Row

A split Federal Circuit panel on Friday sided with the U.S. International Trade Commission's finding that one of Roomba maker iRobot's patents had not been infringed, delivering a setback to the robot vacuum company months after it clinched an import ban against several of its rivals for ripping off another of its cleaning patents.

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

Full Fed. Circ. Won't Eye Reviving \$19M Samsung IP Verdict

The Federal Circuit won't reconsider its decision to throw out a \$19.2 million patent infringement verdict against Samsung, despite arguments from a nonpracticing entity that the panel wrongly substituted its own judgment for the jury's.

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

Fed. Circ. Affirms PTAB Ax Of Hologic Medical Device Patent

The Federal Circuit on Friday ruled a Hologic patent related to a treatment for abnormal menstrual bleeding was invalid because it would have been obvious, upholding a decision from the Patent Trial and Appeal Board.

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

Fed. Circ. Affirms ITC Ax Of Car Toll Patent Claims

The Federal Circuit on Friday invalidated parts of two patents covering technology used in electronic toll systems, upholding the U.S. International Trade Commission's decision in an infringement case Neology Inc. brought against rival companies.

Dechert

Divine & Estes

Dressman Benzinger

Duane Morris

Earthjustice

Edelson PC

Epstein Becker Green

Evans & Dixon

Faegre Baker

Fenwick & West

Fisch Sigler

Fisher Phillips

Fletcher Heald

Freeborn & Peters

Freshfields Bruckhaus

Fried Frank

Frost Brown Todd

Gibson Dunn

Goodwin

Grant & Eisenhofer

Greenberg Traurig

Hart McLaughlin

Hirschfeld Kraemer

Hogan Lovells

Holland & Knight

Horn Aylward

Hunter Smith

Hunton Andrews Kurth

Jackson Murdo

Jones Day

Keefer Wood

King & Spalding

Kirkland & Ellis

Kobre & Kim

Kutak Rock

Latham & Watkins

Law Offices of Stephan C. Volker

Leonard Carder

Lewis Brisbois

Littler Mendelson

Logan Logan & Watson

Lucas Magazine

Manatt Phelps

Markowitz & Richman

Mayer Brown

Morgan Brown & Joy

Morgan Lewis

Morrison & Foerster

Munger Tolles

Nabors Giblin

Norris & Keplinger

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

Fed. Circ. Won't Revive Server Patent Axed By PTAB

The Federal Circuit on Friday upheld the Patent Trial and Appeal Board's decision to invalidate claims from a Rosetta-Wireless Corp. network server patent challenged by Apple and Samsung, and agreed that the data solutions company can't amend its patent.

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

SECOND CIRCUIT

2nd Circ. Kills \$5M Deal Award Against Brazilian Reinsurer

The Second Circuit has declined to enforce a \$5 million settlement award against reinsurer IRB Brasil Resseguros SA, finding that it was not a party to the agreement between insurer National Indemnity Co. and steelmaker Companhia Siderurgica Nacional.

[1 document attached](#) | [Read full article »](#)

2nd Circ. Won't Revive Ex-Mt. Sinai Worker's Race Bias Suit

The Second Circuit on Friday refused to revive a fired worker's race bias suit against Mount Sinai Health System, saying she'd made a "glaringly disproportionate" number of errors while on the job.

[1 document attached](#) | [Read full article »](#)

Madoff Trustee Fights Bid To Pause Foreign Clawback Ruling

The trustee for Bernie Madoff's fraudulent investment firm has asked the Second Circuit not to stay its decision that he can claw back billions in Ponzi scheme proceeds transferred between foreign parties, saying defendants' planned U.S. Supreme Court appeal is unlikely to succeed.

[1 document attached](#) | [Read full article »](#)

THIRD CIRCUIT

3rd Circ. Says Immigration Board's Examination Fell Short

The Third Circuit Friday revived a bid from an Indonesian national to avoid deportation, finding that the Board of Immigration Appeals failed to mention many pieces of compelling evidence he presented and that some of those it did mention contradicted its findings.

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

Comcast Keeps Installer Antitrust Suit Win At 3rd Circ.

The Third Circuit affirmed a defeat for two Pennsylvania cable installers that accused Comcast of anti-competitive tactics that drove them out of business, reasoning Friday that the telecommunications giant wasn't their only potential business in the region.

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

NJ Urges 3rd Circ. To Stop PennEast Pipeline Condemnations

New Jersey on Thursday urged the Third Circuit to overturn a lower court's decision allowing the PennEast Pipeline Co. to file condemnation lawsuits against the state for land the company wants for a \$1 billion natural gas pipeline project.

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

FOURTH CIRCUIT

4th Circ. Trims Sanctions In Fired CarMax Worker's Arbitration

Norton Rose Fulbright
Oliver Price & Rhodes

Orrick Herrington
Panza Maurer & Maynard

Paul Hastings
Paul Weiss

Pepper Hamilton

Perkins Coie
Petti & Briones

Pierce Bainbridge
Priddy Cutler
Quinn Emanuel

Rathbun Cservesnyak
Robbins Russell

Ropes & Gray
Sheppard Mullin

Shook Hardy
Sidley Austin

Simpson Logback
Sive Paget

Skadden
Smith Law Services

Tran Law Firm
Tucker Law Group

Venable LLP

Vorys Sater

Weil Gotshal

White & Case

Wilk Auslander

WilmerHale

Wilson Sonsini

Windels Marx

Wolf Haldenstein

Wollmuth Maher

Wright Close

Wyatt Tarrant

Young Conaway

Zebersky Payne

COMPANIES

Amazon.com Inc.

American Bar Association

American Civil Liberties Union

American Museum of Natural History

Apple Inc.

Association of Corporate Counsel

BB&T Corp.

BNP Paribas

CVC Capital Partners

CalAtlantic Group Inc.

A former CarMax employee who claims he was unfairly fired deserved some sanctions from a district court for arguing aspects of his arbitration award appeal that were already rejected, but he also raised a fresh argument that didn't warrant a penalty, the Fourth Circuit ruled.

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

FIFTH CIRCUIT

Anti-Straight Bias Not Forbidden By Title VII: 5th Circ.

A Fifth Circuit panel said Friday that federal workplace discrimination law does not block employers from firing straight workers because of their sexuality, refusing to budge from its stance that Title VII of the Civil Rights Act does not cover sexual orientation.

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

5th Circ. Says Interstate Travel Axes Oil Workers' OT Suit

The Fifth Circuit has affirmed a federal judge's decision absolving Welltec Inc. from oil field workers' wage and hour claims, saying federal overtime pay requirements don't apply because the workers regularly drove across state lines.

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

Old Ruling Shouldn't Direct Texas Tribal Gaming, 5th Circ. Told

The Ysleta del Sur Pueblo argued Thursday that the Fifth Circuit shouldn't have relied on an error-filled 1994 ruling against it to decide that the Alabama-Coushatta Tribe of Texas can't offer bingo under state law, joining the chorus of voices urging the full court to take another look.

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

SIXTH CIRCUIT

NCAA Referee Passes Death Threats Suit To 6th Circ.

An NCAA men's basketball referee on Friday turned to the Sixth Circuit after his suit accusing two Kentucky radio hosts of inciting death threats and negative reviews of his business was dismissed under First Amendment protections.

[1 document attached](#) | [Read full article »](#)

SEVENTH CIRCUIT

\$2.8M Housing Fund Row Belongs In New Suit, 7th Circ. Says

The Seventh Circuit said an Illinois city and a housing company must start from scratch in a fight over \$2.8 million in reserve funds held by the U.S. Department of Housing and Urban Development.

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

Uphold Arbitration Order In Biometric Case, Southwest Urges

Southwest Airlines employees who are accusing the company of unlawfully collecting their biometric data are trying and failing to sidestep the federal arbitration requirements preempting their suit, the airline told the Seventh Circuit on Thursday.

[1 document attached](#) | [Read full article »](#)

NINTH CIRCUIT

Enviro Say Trump Must Live With Keystone Rejection

Two environmental groups have told the Ninth Circuit that the federal government is wrongly attempting to dodge a ruling invalidating its permit for

California Rural Legal Assistance Foundation Inc.

CarMax Business Services LLC

Citigroup Inc.

Comcast Corp.

Companhia Siderurgica Nacional

Edgeworth Economics LLC

Electronic Frontier Foundation

Essendant Inc.

Exxon Mobil Corp.

Facebook

Florida Power & Light Co.

Food Marketing Institute

GVC Holdings PLC

Geico

General Re Corp.

Google Inc.

HSBC Holdings PLC

Hologic Inc.

Intel Corp.

International Brotherhood of Teamsters

International Speedway Corporation

JAMS Inc.

JEA

Johnson & Johnson

Kapsch TrafficCom AG

Kentucky Bar Association

Lowe's Companies Inc.

MGM Resorts International

MetLife Inc.

Minerva Surgical Inc.

National Collegiate Athletic Association

National Congress of American Indians

National Hispanic Medical Association

National Indemnity Co.

Natural Resources Defense Council

NeoPollard Interactive LLC

New York Immigration Coalition

New York University

Novozymes

Orlando Utilities Commission

PricewaterhouseCoopers

Purdue Pharma LP

QUALCOMM Inc.

Samsung Electronics Co. Ltd.

Southwest Airlines Co.

the Keystone XL pipeline just because President Donald Trump signed a new permit last month.

[1 document attached](#) | [Read full article »](#)

Wells Fargo Battles Cert. In Reimbursement Fight At 9th Circ.

Wells Fargo urged the Ninth Circuit on Friday to reverse a lower court's decision to certify a class of 2,000 home mortgage consultants and bankers who claim the bank didn't reimburse their expenses or pay commissions on time, arguing that the expenses were optional and commissions can't be determined classwide.

[Read full article »](#)

9th Circ. Gives EPA 90 Days To Respond In Pesticide Case

The Ninth Circuit on Friday gave the U.S. Environmental Protection Agency 90 days to respond to objections filed by health and environmental groups over the agency's decision not to ban the pesticide chlorpyrifos.

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

ELEVENTH CIRCUIT

11th Circ. Tosses Underpayment Class Action Against Geico

The Eleventh Circuit on Friday threw out a class action accusing Geico of under-reimbursing health care providers for their services, holding that the lead plaintiff lacked standing to bring the suit in the first place.

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

NEW YORK

NY Panel Greenlights Museum Of Natural History Expansion

A New York state appeals court on Thursday greenlighted the American Museum of Natural History's planned expansion into Theodore Roosevelt Park, finding that the museum has had a right to the disputed land since 1877.

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

FLORIDA

Home Builder Gets Atty Fees In Property Maintenance Suit

Home builder CalAtlantic can recover attorney fees after residents at a Florida development dropped a lawsuit against it over property maintenance, with a state appeals court finding Friday that the suit fell within fees provisions in a declaration governing the community.

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

Fla. Energy Choice Ballot Initiative Attacked From All Corners

A slew of major Florida interests that are rarely in harmony have lambasted a ballot initiative that purports to create a right to a competitive energy market but that opponents say will upend the energy market in the Sunshine State

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

Carlton Fields Nabs Fla. Appellate Pro From Akerman

Carlton Fields has brought aboard a Florida appellate and trial litigator and former St. Petersburg Times journalist as of counsel in its Miami and Tampa offices, the firm announced Thursday.

[Read full article »](#)

KANSAS

Staples Inc.

State Farm

Taylor Bean & Whitaker Mortgage Corp.

The Nature Conservancy

The Walt Disney Co.

TransCanada Corporation

Twitter Inc.

Uber Technologies Inc.

UniCredit

United Farm Workers

United Parcel Service Inc.

United Technologies Corp.

Verizon Communications Inc.

Wal-Mart Stores Inc.

Wells Fargo & Co.

Yale University

Yelp Inc.

YouTube Inc.

iRobot Corporation

GOVERNMENT AGENCIES

Alabama-Coushatta Tribe of Texas

Chicago Department of Aviation

Delaware Court of Chancery

Department of Commerce

Equal Employment Opportunity Commission

European Commission

European Union

Federal Bureau of Investigation

Federal Communications Commission

Federal Energy Regulatory Commission

Federal Trade Commission

Florida State Senate

Florida Supreme Court

International Trade Commission

Montana Department of Revenue

National Indian Gaming Commission

National Labor Relations Board

Native Village of Noatak

New Jersey Department of Environmental Protection

Office of Federal Contract Compliance Programs

Securities and Exchange Commission

Texas Workforce Commission

U.S. Census Bureau

U.S. Department of Agriculture

Med Mal Suit Filed 1 Day Late Nixed By Kan. Supreme Court

The Kansas Supreme Court on Friday affirmed the dismissal of a suit accusing health care providers of negligently causing a patient's death, saying the patient's estate failed to present evidence that an electronic filing issue caused the suit to be lodged one day after the statute of limitations expired.

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

KENTUCKY

Ky. Court Upholds Atty Firing For Refusing Non-Solicit Deal

Kentucky's highest court has unanimously affirmed a lower court's ruling that a law firm did not wrongfully terminate an attorney after she refused to sign a non-solicitation agreement involving clients, as the deal did not violate state legal ethics rules.

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

MICHIGAN

Live Nation Not Responsible For Concertgoer's Broken Ankle

Promoter Live Nation and Michigan International Speedway are off the hook from a lawsuit brought by a concertgoer who fell and broke her ankle in nearby woods while leaving a music festival, a Michigan appeals court held Thursday.

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

MONTANA

Exxon Tells Mont. Justices Dividend Deduction Cap Improper

The Montana Department of Revenue ignored its own guidance when the agency didn't permit Exxon Mobil Corp. to fully deduct dividend payments from subsidiaries that hold most of their business assets internationally, the oil giant told the state Supreme Court.

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

EXPERT ANALYSIS

In Virtual Teams For Mass Torts, The 'Law Team' Is Critical

A critical component of any virtual law team assembled for mass tort litigation is a dedicated "law team," which tackles the legal strategy and drafts the many necessary pleadings, motions and other submissions, say attorneys at Pepper Hamilton and Faegre.

[Read full article »](#)

LEGAL INDUSTRY

Analysis

BigLaw Forced Arbitration Expected To Survive Amid #MeToo

Even though social media pressure spurred on by Harvard law students has led several BigLaw firms to change course on mandatory arbitration, experts say arbitration has gotten a bad rap and so-called coercive contracts, in some form, will ultimately survive the #MeToo movement.

[Read full article »](#)

Analysis

Looking To Go Green? Here's How It Can Work For Your Firm

As another Earth Day arrives, environmental consciousness is on the minds of many in the legal industry, and despite a number of challenges, going

[U.S. Department of Homeland Security](#)

[U.S. Department of Housing and Urban Development](#)

[U.S. Department of Justice](#)

[U.S. Department of Labor](#)

[U.S. Department of State](#)

[U.S. Department of Transportation](#)

[U.S. Environmental Protection Agency](#)

[U.S. House of Representatives](#)

[U.S. Immigration and Customs Enforcement](#)

[U.S. Supreme Court](#)

[United States Court of Appeals for the Third Circuit](#)

[Wisconsin Supreme Court](#)

[Ysleta del Sur Pueblo](#)

green is not only a possibility but an opportunity as well.

[Read full article »](#)

In Civil Rights Arena, Practice Groups A Rare But Potent Force

Although a rarity among firms, dedicated practice groups focused on civil rights cases can have a big impact, proponents say, taking cases solo attorneys and government regulators can't.

[Read full article »](#)

Analysis

5 Times Lawyers Settled During The Big Show

Apple and Qualcomm grabbed headlines when they decided to settle their differences before a San Diego federal jury could decide their multibillion-dollar antitrust dispute. But they aren't the first high-profile litigants to think twice about having a jury decide their fate once they got to court.

[Read full article »](#)

Analysis

Gibson Dunn Ups The Ante On Gambling After High Court Win

Gibson Dunn, the law firm that led the fight to overturn a federal ban on sports betting, has launched a revamped practice group focused on sports betting and gambling, positioning itself to take advantage of the rapidly expanding, newly legal market.

[Read full article »](#)

Baker Donelson's Growth Recognized Its Roots, Ex-Chief Says

During Ben Adams' 16 years at the helm of Baker Donelson, the firm doubled its offices and attorneys, carrying out a growth strategy that the departing chairman told Law360 bet on the firm's roots to prepare for its future.

[Read full article »](#)

Q&A

Q&A With 'Queen Of Torts' Sheila Birnbaum

Dechert LLP's Sheila Birnbaum, known as the "Queen of Torts," recently discussed with Law360 the changes in product liability laws she has seen over her long career, her proudest achievement as a lawyer and the challenges of representing Purdue Pharma in the multidistrict litigation over the opioid crisis.

[Read full article »](#)

More Women Taking Reins Among Tech Giants' Legal Chiefs

Women are increasingly heading up the legal departments of the largest companies in California's Silicon Valley as well as the corporations on the S&P 100, though men continue to hold the bulk of those positions, a biannual report by Fenwick & West LLP reveals.

[Read full article »](#)

Most 2016 Law Grads Who Took The Bar Passed, ABA Says

About 88.6% of 2016 law school graduates who took the bar exam within two years of completing school passed the test, the American Bar Association said Friday, noting that the class of 2016's two-year success rate is about the same as that of 2015 graduates.

[Read full article »](#)

GC Cheat Sheet: The Hottest Corporate News Of The Week

Google has been accused in a derivative suit of hiding workplace harassment, a Duane Morris partner said law firms are dropping the ball in addressing misconduct and employers are seeking to fortify Trump administration regulations against court attacks. These are some of the stories in 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.

[Read full article »](#)

Podcast

Law360's Pro Say: Mueller Madness

After more than two years of speculation, Special Counsel Robert Mueller's report about Russian interference with the 2016 election has been released and there are plenty of legal revelations to unpack. So we'll do just that on this week's Pro Say podcast.

[Read full article »](#)

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Hinshaw and Culbertson
Ft Lauderdale, Florida

Real Estate Associate

Duane Morris
Philadelphia, Pennsylvania

Labor & Employment Associate - (1+ yrs Exp.)

Jones Day
San Diego, California

Senior Litigation Associate

Duane Morris
Cherry Hill, New Jersey

Business Associate Attorney - Junior to Mid-Level

Perkins Coie LLP
Portland, Oregon

Intellectual Property Docket Clerk

Carter, DeLuca, & Farrell, LLP
Melville, New York

Patent Litigation Associate Attorney - Junior

Perkins Coie
Phoenix, Arizona

Legal Secretary

Carlson, Calladine & Peterson LLP
San Francisco, California

Chemistry Patent Attorney/Agent

Klarquist Sparkman, LLP
Portland, Oregon

Patent Attorney

Dority & Manning, P.A.
Greenville, South Carolina

Junior Associate (1-3 Years) Intellectual Property - Engineering

Leydig, Voit & Mayer
Multiple Locations (Chicago, Boulder, Bay Area, D.C.), -

Intellectual Property Litigation and Unfair Competition Associate

Company Confidential
Philadelphia, Pennsylvania

Advertising, Privacy Associate

Kelley Drye & Warren LLP
Washington, District of Columbia

Patent Attorney (Electrical Engineer/Computer Science)

Volpe and Koenig, P.C.
Philadelphia, Pennsylvania

Technical Specialist / Scientific Advisor

Axinn
Hartford, Connecticut

Biotech Patent Agent or Attorney

Dentons US LLP
Dallas, Texas

Associate General Counsel Commercial

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Northbrook, Illinois

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