

## **ARTICLES FOR 1-12-17 ROUNDUP**

### **AG Brnovich Appoints Solicitor General**

PHOENIX – Arizona Attorney General Mark Brnovich today announced the appointment of Dominic Draye as Solicitor General. Draye replaces John R. Lopez IV who left office to serve as an Arizona Supreme Court Justice.

“John Lopez leaves big shoes to fill as a champion of federalism and the rule of law,” said Solicitor General Dominic Draye. “With the help of our top-notch team, I will do my best to carry on this office’s excellent service to the State of Arizona.”

The Solicitor General’s duties include leading the AZAG Federalism Unit and overseeing preparation of legal opinions and appellate litigation for the Arizona Attorney General’s Office.

Since 2015, Dominic Draye has served as the Deputy Solicitor General. In that capacity, he represented the State in a wide range of appeals, including defending the State’s policy of withholding driver’s licenses to DACA beneficiaries. Draye also led a 10-state coalition challenging the EPA’s new ozone regulations and defended Arizona’s identity theft and forgery laws.

Prior to his current position, Draye worked in the Washington D.C. office of Kirkland & Ellis LLP. At Kirkland, his practice focused on legal issues and appeals in a broad range of topics. Before joining the firm, Draye clerked for Hon. Edith H. Jones of the United States Court of Appeals for the Fifth Circuit. He attended the University of Pennsylvania Law School.

### **NEW SOLICITOR GENERAL CLYDE WADSWORTH NAMED**

Attorney General Doug Chin announced that Clyde Wadsworth started January 3 as the new Solicitor General for the State of Hawaii. The Solicitor General has oversight authority over most state and federal appeals in the Attorney General’s office, including briefs filed on behalf of the State of Hawaii in the United States Supreme Court.

Previously, Wadsworth was of counsel to Alston Hunt Floyd & Ing in Honolulu. With more than 30 years of litigation experience, he has a Martindale-Hubbell AV-Preeminent rating and has been nationally recognized as one of America’s Best Lawyers in commercial litigation. In addition, he has served as pro bono counsel in several significant cases brought to safeguard LGBT civil rights.

In 2014, he successfully argued Hawaii’s marriage equality case, *Jackson v. Abercrombie*, before the U.S. Ninth Circuit Court of Appeals. He is a past recipient of the Lambda Legal Liberty Award.

Attorney General Chin said, “After his many years in the private sector, we’re fortunate to bring Clyde Wadsworth’s experience and expertise to bear on behalf of the State of Hawaii.”

Wadsworth received his bachelor's degree (magna cum laude) in politics from Princeton University and his law degree from UCLA, where he served as an editor of the UCLA Law Review.

## **Backpage.com Suspends Controversial Sexual Advertising in Human Trafficking Fight**

PIERRE, S.D. – South Dakota Attorney General Marty J. Jackley confirms that Backpage.com has suspended its sexual advertising in relation to the ongoing human trafficking fight.

“South Dakota children are falling victim to sexual crimes including internet crimes against children. I commend the Nation’s Attorneys General community for taking on this important fight to protect against sources like Backpage.com that actively promote and refuse to cooperate in the prevention of child sex trafficking,” said Jackley.

In South Dakota, state, local and federal law enforcement have run operations designed to protect children and remove sexual predators from the street. To date, ten operations involving 47 arrests have been made, with many ads in the operations having been placed on Backpage.com

Preventing kids from being trafficked on the internet has been a long-term effort of the National Association of Attorneys General (NAAG). NAAG has taken several actions regarding Backpage.com and similar websites, including requesting that these exploitative websites shut down their sections which fuel the online trafficking of youth.

On July 23, 2013, South Dakota Attorney General Marty Jackley, Washington State Attorney General Bob Ferguson, and Missouri Attorney General Chris Koster authored a bi-partisan letter joined by 49 state Attorneys General addressing concerns with Backpage.com. Both identifying the public danger and providing the solution.

On October 3, 2016, Attorney General Marty Jackley joined 20 other State Attorneys General challenged Backpage.com’s use of language to encourage payment methods that make financial transactions with human traffickers untraceable, strips metadata to impair law enforcement’s ability to locate victims, and deletes “string adds” posted by law enforcement. See *Jane Doe 1, Jane Doe 2, Jane Doe 3 v. Backpage.com*.

In October 2016, the CEO of Backpage.com, Carl Ferrer was arrested in Houston for numerous alleged violations of sex crimes involving minors, and the website’s owners face similar charges in California and Washington.

## **AG Fox Announces Increases In Human Trafficking Victims Rescued In Montana**

Attorney General Tim Fox announced today that while the number of known human trafficking cases in Montana increased between 2015 and 2016, so did the number of child and adult victims rescued during that same timeframe.

The Montana Department of Justice's Division of Criminal Investigation (DCI) compiled 2015 and 2016 human trafficking statistics for the state\* by merging DCI and known federal prosecution cases through the US Attorney's Office. Of note:

- Montana experienced a 100% increase in human trafficking cases between 2015 and 2016.
- The number of adult victims rescued in Montana between 2015 and 2016 increased by 83%.
- The number of juvenile victims rescued in Montana between 2015 and 2016 increased by 400%.

“Our ongoing legislative advocacy and outreach efforts over the last four years to fight modern-day slavery have resulted in greater public awareness, increased detection by our law enforcement partners, and justice for more of its victims,” Attorney General Tim Fox said. “Unfortunately, it’s possible that human trafficking investigations would cease if the proposed 5% budget reduction impacts our Division of Criminal Investigation. Human trafficking investigations tend to be complex and expensive operations, but we can’t put a price on the safety of Montana’s children. While we’re much further along than we were, there’s still more to be done,” Attorney General Fox added.

Bryan Lockerby, administrator of DOJ’s Division of Criminal Investigation emphasized that the concept of human trafficking investigations has evolved primarily due to the increased attention and training that’s available for law enforcement. Lockerby said, “Similar to peeling back the layers of an onion, we’re getting better at these cases and figuring out appropriate responses. Although the large scale human trafficking ‘sweeps’ don’t work in our state, the quick response to tips and immediate follow up to individual cases has proven much more successful and resulted in an increase in arrests and identification of victims.”

Human trafficking awareness and prevention have been key initiatives of the Montana Department of Justice since Attorney General Fox took office four years ago. Montana’s laws now have the clear definitions and penalties needed to protect children and help sex trafficking victims on the road to recovery.

In 2015, Shared Hope International ranked Montana as one of the top three states in the country for its efforts to prevent child sex trafficking, citing Montana’s successful commitment to advancing legislation that same year to ensure that children are not for sale within its borders. During the 2015 legislative session, House Bill 89 was drafted by and introduced at the request of Attorney General Tim Fox, and was sponsored by Rep. Kim Dudik (D) of Missoula. Effective July 1, 2015, this important legislation updated Montana’s human trafficking laws to reflect the model state human trafficking act.

More information on human trafficking, as well as a printable awareness poster, is available on the Attorney General’s Office website at [www.dojmt.gov/stoph](http://www.dojmt.gov/stoph). To report suspected human trafficking cases or to request help, call local law enforcement or 1-888-3737-888 or text BeFree (233733).

## **Attorney General Balderas Announces Project OPEN: Opioid Prevention & Education Network**

This morning, New Mexico Attorney General Hector Balderas announced a new initiative by his office to combat the opioid abuse and addiction crisis in New Mexico. Project OPEN: Opioid Prevention & Education Network will kick off by hosting an Opioid Abuse Training in Albuquerque on January 11, 2017.

The training, presented in conjunction with the National Association of Attorneys General, is free and will expose attorneys, policy advisors, investigators, healthcare professionals, consumer advocates and others to the impact and results of opioid abuse on New Mexico communities. It is intended to enhance the participants' knowledge and understanding of opioid addiction and the countless issues involved.

“We can no longer allow opioid abuse and addiction to destroy New Mexico families and the future of our youth,” said Attorney General Balderas. “I created Project OPEN in order to combat the opioid crisis in our state, and our first action will be training New Mexicans who are on the frontlines of this fight at our free Opioid Abuse Training. I encourage advocates, law enforcement officials, healthcare professionals and policy makers from all corners of New Mexico to attend this training so we can work together to make our families safer and healthier.”

Topics at the training include the following: Overview of Opioid Abuse Issues, Treatment Options and Issues, Protecting Consumers, Opioids and Dealing with Fraud, and Court Involvement and Beyond.

Attorney General Balderas will present at the training in addition to experts from the Drug Enforcement Administration, Healing Addiction in our Community, National Association of Attorneys General, New Mexico Department of Health, New Mexico Office of the Attorney General, and the Ohio Office of the Attorney General. Dr. Theodore Parran and former First Judicial District Attorney Angela Spence Pacheco will also present.

To register for the free training being held on January 11, please contact Tamarra Howard with the New Mexico Office of the Attorney General at (505) 717-3506 or [thoward@nmag.gov](mailto:thoward@nmag.gov). This training is made possible by a grant from the State Attorney General Consumer and Prescriber Education Grant Program which is funded by the multi-state settlement of consumer fraud claims regarding the marketing of the prescription drug Neurontin.

## **Attorney General Announces Agreement to Divert Matters to Anvik Village Tribal Court**

(Anchorage, AK) – Attorney General Jahna Lindemuth and the Anvik Village Tribe signed the Civil Diversion Agreement today. The agreement requires state law enforcement to offer defendants of certain low-level offenses and crimes a referral to the Anvik Village tribal court. The State stands ready to enter into the agreement with other individual tribes.

The State has been working collaboratively for the past three years in a working group with various tribes and tribal organizations, including Tanana Chiefs Conference, the Central Council of Tlingit and Haida Indian Tribes of Alaska, the Association of Village Council Presidents, Kawerak, Inc.,

the Sitka Tribe of Alaska, Maniilaq Association, the Native American Rights Fund, Alaska Legal Services Corporation, representative tribal judges, and other tribes and tribal organizations from across the state. The focus of the working group was to negotiate a model agreement that could be entered into between the State and individual tribal governments to divert certain low-level criminal offenses to tribal court.

“In our vast state, criminal justice resources get spread thin,” said Attorney General Lindemuth. “By partnering with tribal governments, we get culturally-based solutions. It’s a win-win for the State and the tribes. I am excited that the Anvik Village Tribe has entered into this agreement and look forward to more tribes participating in this innovative program.”

Under this agreement, offenders who would otherwise be charged with certain fourth degree assaults, reckless endangerment, Class B misdemeanors, crimes involving substance abuse, and certain alcohol and drug-related offenses must be given the option to go before the tribal court for a culturally-based remedy, instead of state court. The offender must consent in writing and agree to a tribally imposed remedy, or face the possibility of prosecution in state court. The tribal court can also decline to take the matter and send it back to state court. In addition, the agreement retains additional safeguards and sideboards before any domestic violence offense would be diverted from state court.

The agreement recognizes that “increasing tribal involvement in judicial services and law enforcement will encourage community involvement, create greater local accountability with respect to public safety, and promote a stronger link between the Tribe, the State, and all Alaskans.”

“We are all in this together, and the more we can collaborate, the more we can improve public safety for all of our communities,” said Attorney General Lindemuth.

## **CashCall Agrees to Provide Nearly \$3 Million in Refunds and Debt Forgiveness to District Consumers in Settlement**

Settlement Ends Lawsuit Attorney General Racine Filed over Unlawful Predatory Lending

WASHINGTON, D. C. – Attorney General Karl A. Racine announced today that lender CashCall Inc. will return payments of more than \$1.8 million made by District consumers and will forgive more than \$1 million in remaining debts to settle a lawsuit the Office of the Attorney General (OAG) filed last year. District consumers eligible for repayment under the settlement will receive an average of more than \$1,300 each.

“Extremely high-interest loans, like the ones this company offered, trap borrowers in debt and are illegal in the District of Columbia,” said Attorney General Karl A. Racine. “Our Office of Consumer Protection worked to recover the maximum amount of restitution possible. We are pleased to announce that more than 1,300 District residents who were victimized by these lending practices will get back some of the money they paid to CashCall to cover exorbitant -- and illegal -- interest rates.”

In a lawsuit filed in September 2015, the Attorney General alleged that CashCall violated the District's Consumer Protection Procedures Act and Debt Collection Law by charging consumers illegal interest rates that ranged from 80 percent to 169 percent -- rates well over the maximum interest rate of 24 percent allowed under District law. During the litigation that preceded today's settlement, CashCall argued that it was merely a servicer and that its loans were made by a Native American tribe, and were thus not subject to the District's lending laws. The Superior Court of the District of Columbia rejected this argument, finding that CashCall was the true lender and thus subject to the District's usury statute. OAG also accused CashCall of engaging in lending activities without obtaining the required Money Lender's License.

In the settlement, the California-based debt-collection company CashCall Inc.; WS Funding, a debt collection subsidiary owned by CashCall; and J. Paul Reddam, the owner of CashCall, agreed to:

- Return payments totaling \$1,862,573.38 to District consumers;
- Forgive remaining debts of more than \$1 million owed by District consumers on existing loans;
- Pay \$100,000 in penalties and costs to the District;
- Ask credit bureaus to remove any credit entries made on consumers' records concerning a CashCall loan; and
- Cease any lending in the District unless it obtains the required license and, in the event it lawfully recommences its lending activities, to stop charging usurious interest rates.

"We will not tolerate predatory lenders taking advantage of residents when they are at their most vulnerable, and our Office of Consumer Protection will continue to stand up to this type of unlawful and immoral behavior," said Attorney General Racine. For more information about how to avoid abusive lending practices, visit OAG's Office of Consumer Protection website.

Attorney General Racine added, "Many thanks to Phil Ziperman, the Director of our Office of Consumer Protection, and Assistant Attorney General Richard Rodriguez in the Office of Consumer Protection for their excellent work to get some justice for District consumers through this lawsuit and settlement."

## **California-Based Pension Advance Company Banned in Iowa from Illegal High-Interest Lending**

DES MOINES – A California-based company that charged up to 200 percent interest for cash advances on largely military pensions will cease offering Iowans what Attorney General Tom Miller alleges are illegal and exorbitant high-interest advance loans, and refund overcharged consumers.

Future Income Payments (FIP) LLC this week paid the state \$35,000 as part of an agreement called an assurance of voluntary compliance. FIP will refund Iowa consumers who were overcharged and modify existing contracts into interest-free loans.

FIP, formerly doing business as Pensions, Annuities and Settlements (PAS), operates from California, and is incorporated in Delaware. Its owner and president is Scott A. Kohn.

“This company preys upon vulnerable people who are desperate for money, particularly veterans who can sign over a reliable pension,” Miller said. “For a few thousand dollars cash up front, you’re forced to sign over tens of thousands of dollars from your future pension income. That’s what we call predatory lending.”

FIP markets “purchase” and “sale” agreements to consumers who “have an immediate need for a lump sum payment,” which Miller contends are actually illegal consumer loans at illegally high interest rates.

FIP is not licensed to offer consumer loans in Iowa and charges interest rates that far exceed state law. The agreement bans the company from offering unlicensed loans and charging interest rates that violate state law.

According to company records, 64 Iowa consumers paid an average annual percentage rate of 131 percent—and as high as 200 percent—for cash advances of up to \$14,000. The majority are military veterans and spouses. The company also markets to those who draw government and corporate pensions.

At least five other states have pursued civil or administrative actions against the company and Kohn.

“If you have a pension and you’re desperate for cash, be very careful about signing that pension away,” Miller said, adding that consumers should first find out exactly how much they’ll owe in costs, fees and interest. “Consider seeking loan advice through a bank, credit union, credit counseling service, or trusted financial or tax adviser” he added.

## **AG FERGUSON SURPASSES \$1 MILLION IN STUDENT-BORROWER RECOVERIES**

AG initiative to protect student borrowers includes bipartisan Student Loan Transparency Act

OLYMPIA — Attorney General Bob Ferguson announced today that his office has recovered more than \$1.2 million in the last year cracking down on student loan debt adjusters who prey on borrowers. Ferguson also announced the introduction of bipartisan legislation to provide more transparency to students about their borrowing.

Since November 2015, Ferguson has brought lawsuits or resolved allegations against 15 out-of-state student loan adjusters for violating Washington’s Debt Adjustment Act and Consumer Protection Act by charging illegal fees for debt adjusting and ignoring legal obligations to inform customers of important rights. As a result of Ferguson’s actions, these companies no longer conduct business in Washington.

For example, under Washington’s Debt Adjustment Act, the maximum upfront fee a debt adjuster may legally charge is \$25. The companies investigated by Ferguson’s office, however, typically charged upfront fees of \$200-\$1,000. Borrowers were also charged monthly “monitoring” fees in

excess of the legal limit, and without a clear understanding that these fees would continue for the life of the loan.

These companies also often:

Falsely claimed an affiliation with the federal Department of Education

Aggressively marketed “student loan forgiveness” despite the fact that most debtors were not eligible for forgiveness

Claimed to be student loan “experts” despite the fact that the employees had no experience in the industry

Claimed to be able to expedite the consolidation process despite the fact that they had no ability to do so

The cases have returned an average of nearly \$800 each to more than 1,600 Washington student borrowers of federally backed loans. Each student received or will receive a full refund of the fees they paid to the debt adjusters.

Student loan debt adjustment firms offer to help students complete and submit paperwork to the U.S. Department of Education to consolidate their federal student loans. But information about repayment options and help consolidating federal student loans is available — for free — directly from the U.S. Department of Education. Borrowers can also contact the company to which they currently make payments for information about consolidation and repayment options like income-based repayment.

“Thousands of Washingtonians are overburdened with student debt,” Ferguson said. “These firms unfairly preyed on students who sought help managing their loans.”

Attorney General’s student loan initiative

The debt-adjustment enforcement efforts are part of the Attorney General’s larger focus on protecting student borrowers. These borrowers are often confounded by confusing or difficult to find information — but there is no shortage of scammers out to take advantage of them.

As part of a broad initiative, Ferguson also proposed bipartisan, agency-request legislation to mandate clear debt information for student borrowers in Washington.

“Student loan borrowers and their families need clear and accurate information to navigate an often confusing process that often leaves them indebted for decades. This legislation will help address these challenges,” Ferguson said.

Modeled after legislation in Indiana, Wisconsin and Nebraska, Ferguson’s proposed Student Loan Transparency Act requires colleges and other institutions of higher education to provide notices to students detailing their loan balances and estimated monthly payments within 30 days of the disbursement of the loan.

The Indiana Legislature passed its law after the demonstrated success of transparency efforts in that state. During the 2012-13 academic year, Indiana University sent annual loan statements to

students. In the wake of this and other financial literacy initiatives, the school saw undergraduate borrowing decline by almost 16 percent over two years.

Ferguson's Student Loan Transparency Act is sponsored by Sen. Barbara Bailey, R-Oak Harbor, as Senate Bill 5022, and Rep. Tina Orwall, D-Des Moines, under House Bill 1057.

"Student borrowers deserve clear, concise information on their loan debt, and this bill gives it to them," Sen. Bailey said. "That knowledge is key to making smart decisions as students navigate their scholastic careers."

"Most students lack even basic information about their loans, and many of them underestimate how much debt they already have," Rep. Orwall added. "The basic information in this bill gives students the tools they need to make informed choices to better plan for their future, which could be the difference between manageable debt and graduates who are buried by their loans."

Attorney General Ferguson is committed to standing up for students by cracking down on predatory for-profit colleges, ensuring loan-servicing and debt-adjusting companies play by the rules, and promoting legislation to protect consumers. More information on the office's student loan work is available [here](#).