

## **ARTICLES FOR 8-31-17 ROUNDUP**

### **ATTORNEY GENERAL BECERRA: COURT ALLOWS PROSECUTION IN SEX TRAFFICKING BACKPAGE.COM CASE TO PROCEED**

SACRAMENTO – Today, Sacramento County Superior Court Judge Lawrence Brown overruled defense dismissal motions in the Backpage.com case, allowing the criminal prosecution by the California Attorney General's Office against defendants Carl Ferrer, James Larkin and Michael Lacey to proceed on 25 felony counts. The defendants are charged with money laundering and conspiracy utilizing Backpage.com as a multi-million dollar online sex trafficking hub.

“It's a vile story: vulnerable teenagers are exploited online and lured into becoming victims of sex trafficking,” said Attorney General Becerra. “Today's victory doesn't exact justice just yet against those who would prey on vulnerable young women and men. But it brings us a step closer. Local, state and federal law enforcement authorities are working together to combat sex trafficking across California and the United States. We will vigorously prosecute this case.”

Last month, in another case involving sex trafficking, Attorney General Becerra filed 54 felony charges against Quinton Brown, Gerald Turner and Mia McNeil. The criminal complaint is the product of a six-month investigation by the Tulare County Sheriff's Department, Los Angeles County Sheriff's Department, Los Angeles County Regional Human Trafficking Task Force and the California Department of Justice. The complaint alleges that Brown lured victims, several of them underage, from the Central Valley and trafficked them throughout the state. The case is pending in Tulare County Superior Court.

It is important to note that a criminal complaint contains charges that are only allegations against a person. Every defendant is presumed innocent until proven guilty.

### **AG SCHIMEL ANNOUNCES CREATION OF TASK FORCE ON ELDER ABUSE**

MILWAUKEE, Wis. – Today, in front of attendees at the annual National Adult Protective Services Association (NAPSA) Conference, Attorney General Brad Schimel announced the creation of the Attorney General's Task Force on Elder Abuse.

“Over the next two decades, Wisconsin's 65 and older population will increase by 72%<sup>[1]</sup>” and one in nine seniors have reported being abused, neglected or exploited in the past twelve months,<sup>[2]</sup>” said Attorney General Schimel. “Sadly, this group is seen by criminals as vulnerable and easily exploitable. With this rapidly growing population, we must act with urgency to protect our loved ones from becoming the target of financial, physical, emotional, and sexual abuse.”

The Task Force on Elder Abuse is charged with compiling the resources and knowledge of a multi-disciplinary team of professionals to study the impact of elder abuse in Wisconsin and assess ways to improve outcomes for this growing population of citizens. In addition to developing strategies to address barriers in investigation and prosecutions of elder abuse, the task force will strengthen

consumer protection for seniors and create recommendations for improved cross-system communications.

The task force, made up of representatives from Wisconsin Department of Justice, Wisconsin Department of Health Services, Wisconsin Department of Agriculture, Trade and Consumer Protection, Wisconsin Department of Financial Institutions, the Wisconsin State Legislature, law enforcement, Wisconsin Court System, Board on Aging and Long Term Care, Wisconsin Bankers Association, crime victim services, adult protective services, senior living facilities, and senior citizen advocacy organizations, will meet quarterly, with issue-focused working groups that will meet on a monthly basis.

The inaugural meeting of Attorney General Schimel's Task Force on Elder Abuse will take place in October 2017.

For more information about elder abuse, please visit the National Adult Protective Services Association, National Center of Elder Abuse, State of Wisconsin Board on Aging and Long Term Care or Wisconsin Aging and Disability Resource Centers.

To report suspected financial, physical, emotional, or sexual abuse, please contact your county elder adult-at-risk agency. If you witness an act of abuse, neglect, or exploitation that requires immediate attention, please call 911.

#### Additional Elder Abuse Facts and Statistics

By 2040, 18 counties in Wisconsin are projected to have at least 33% of their total population made up of individuals ages 65 and older. Three of these counties are estimated to reach 40%.<sup>[3]</sup> Elder abuse is vastly underreported; only one in 44 cases of financial abuse is ever reported.<sup>[4]</sup> Abused seniors are three times more likely to die than those who had not been abused and elder abuse victims are four times more likely to go into a nursing home.<sup>[5]</sup> Almost one in ten financial abuse victims will turn to Medicaid as a direct result of their own monies being stolen from them.<sup>[6]</sup> Financial abuse by itself costs older Americans more than \$2.6 billion dollars annually.<sup>[7]</sup> The direct medical costs of injuries are estimated to contribute more than \$5.3 billion to the nation's annual health expenditures.<sup>[8]</sup>

[1] <https://www.dhs.wisconsin.gov/dementia/demographics.htm>

[2] <http://www.napsa-now.org/policy-advocacy/exploitation/>

[3] <https://www.dhs.wisconsin.gov/dementia/demographics.htm>

[4] <http://www.napsa-now.org/policy-advocacy/exploitation/>

[5] <http://www.napsa-now.org/policy-advocacy/exploitation/>

[6] <http://www.napsa-now.org/policy-advocacy/exploitation/>

[7] <https://ncea.acl.gov/whatwedo/research/statistics.html>

[8] <https://ncea.acl.gov/whatwedo/research/statistics.html>

## **ALASKA SUPREME COURT UPHOLDS GOVERNOR'S VETO**

(Anchorage, AK) – The Alaska Supreme Court issued a decision today upholding Governor Bill Walker’s action last year to reduce the permanent fund dividend appropriation in the budget bill.

“I want to thank the legal team here at the department for their hard work on this case,” said Attorney General Jahna Lindemuth. “I know this is not a decision Governor Walker took lightly, but I’m glad we have more clarity around use of permanent fund earnings as we continue to try and resolve the State’s fiscal crisis.”

Previously, the Alaska Superior Court had upheld the reduction of the permanent fund dividend, but on different grounds than the Alaska Supreme Court. The superior court determined that regardless of whether the earnings of the permanent fund were subject to the constitutional prohibition against dedicated funds, the constitutional appropriations clause required that the legislature appropriate the money, which meant the governor could also veto the appropriation.

Instead of looking at the appropriations clause, the Alaska Supreme Court focused solely on the anti-dedicated funds clause. It held: “...the 1976 amendment did not exempt the legislature’s use of Permanent Fund income from the Constitution’s anti-dedication clause...The legislature’s use of Permanent Fund income is subject to normal appropriation and veto budgetary processes.” This means that the action taken by Governor Walker last year and the action taken by the legislature this year to reduce the permanent fund dividend appropriation was constitutional.

Article 9, section 7 of the Alaska Constitution is known as the anti-dedicated funds clause. The clause reads: “The proceeds of any state tax or license shall not be dedicated to any special purpose...” with certain exceptions. The Court’s opinion today clarifies that none of the exceptions apply to the earnings of the Permanent Fund. Any money to be spent from the permanent fund earnings reserve account must go through the normal budgeting process whereby the legislature annually appropriates specific sums of money for certain purposes, and the governor can then strike or reduce those sums under the veto power in article 2, section 15 of the Constitution.

CONTACT: Assistant Attorney General Kathryn Vogel at 269-5100 or [kathryn.vogel@alaska.gov](mailto:kathryn.vogel@alaska.gov).

## **FORMER CITY OF KINGMAN EMPLOYEE PLEADS GUILTY TO THEFT OF MORE THAN \$1,000,000**

KINGMAN – Attorney General Mark Brnovich announced 60-year-old Diane Maxine Richards pleaded guilty to stealing more than a million dollars from the City of Kingman.

Richards pleaded guilty to 4 counts of Theft, all class 2 felonies. In September 2015, Special Agents with the Attorney General's Office and ICE Homeland Security Investigations launched an investigation after financial institutions reported unusual activity involving Richards' bank accounts.

Investigators found Richards misused a City of Kingman credit card to pay for her personal expenses from July 2007 through January 2015. Those personal expenses include payments to Richards’ personal cell phone, utility, and car insurance bills. Richards submitted falsified invoices

to account for the charges. She also used the City of Kingman credit card to pay off cash advances taken out at various casinos. The total amount Richards spent on the City of Kingman credit card is \$121,862. Richards also misappropriated \$991,727 from an Employee Benefits Trust account.

Richards faces up to 9.25 years in prison. As part of her guilty plea, Richards will pay \$1,113,589 in restitution to the City of Kingman. She will also forfeit her state retirement benefits.

Assistant Attorneys General Joseph Waters and Adam Schwartz prosecuted this case.

The judge deferred acceptance of the plea until sentencing which is set for October 04, 2017 at 2:30 pm.

## **AG COFFMAN ANNOUNCES INDICTMENT OF SILT POLICE OFFICER**

DENVER- Colorado Attorney General Cynthia H. Coffman today announced the filing of charges against Michael Taylor, an officer with the Silt Police Department. Taylor was indicted by the Colorado Statewide Grand Jury and was charged with three counts of felony insurance fraud, three counts of felony forgery, and three counts of felony theft. The indictment followed an investigation by the Attorney General's office, the Colorado Bureau of Investigation, and the National Insurance Crime Bureau.

“Insurance fraud is a crime that affects everyone in Colorado by driving up premiums and creating red tape for our hardworking and honest citizens,” said Attorney General Coffman. “The fact that this alleged criminal behavior was perpetrated by someone who was sworn police officer, who was supposed to protect Coloradans, makes this even more grievous.”

Taylor allegedly made a series of three deceptive insurance claims from 2010 to 2015 and received tens of thousands of dollars in insurance payments. In 2015 he made a false police report and claimed someone had gone into his wife's vehicle and stolen thousands of dollars of jewelry. He is alleged to have then made a false insurance claim based upon that false police report and received \$9,918 from the insurance company before his fraud was uncovered.

The Attorney General's Financial Fraud Unit is dedicated to the investigation of insurance fraud and securities fraud crimes. To report suspected fraud, contact the Attorney General's Office at [www.stopfraudcolorado.gov](http://www.stopfraudcolorado.gov) or by calling 1-800-222-4444.

The case has been filed in Garfield County. It is important to note that the filing of criminal charges is merely a formal accusation that an individual committed a crime. Every defendant should be presumed innocent until proven guilty.

## **AG HEALEY SUES TO PROTECT PUBLIC SERVICE LOAN FORGIVENESS**

BOSTON – Defending the rights of students pursuing public service careers, Massachusetts Attorney General Maura Healey today sued one of the largest federal student loan servicers in the country for undermining Public Service Loan Forgiveness (PSLF), a federal program that forgives

student loans after 10 years of public service, enabling Americans to take lower-paying jobs in public service.

The complaint links to PDF file, filed today in Suffolk Superior Court, alleges that the Pennsylvania Higher Education Assistance Agency (PHEAA)—doing business as FedLoan Servicing—violated state and federal laws by causing teachers and other public servants to lose benefits and financial assistance under PSLF and the Teacher Education Assistance for College and Higher Education (TEACH) Grant program.

“This company’s actions have jeopardized the financial futures of teachers and public servants across the country,” said AG Healey. “These federal programs allow Americans from all backgrounds to dedicate their careers to serving others. My office will protect PSLF and hold PHEAA accountable for forcing these students further into debt.”

Congress created the PSLF program and the TEACH Grant program to address the disconnect between the rising cost of higher education and society’s need for skilled workers in public sector jobs. Congress recognized that when students graduate with significant amounts of debt, pursuing public service careers often is not an option for them.

The PSLF program allows public servants, such as police officers, military personnel, nurses, social workers, and government employees, to commit to public service and manage their student loan debt and receive loan forgiveness after 10 years of service. In May, the Trump administration proposed eliminating PSLF for borrowers who take out loans after July 1, 2018.

Under the TEACH Grant program, students who wish to pursue teaching careers in low-income schools for at least four years in fields such as math, science or foreign language are given financial grants. Students receive up to \$4,000 per year to help pay for the education required for their teaching career.

The U.S. Department of Education exclusively hired PHEAA to manage these federal programs. Upwards of a million student borrowers have committed themselves to public service jobs and are fulfilling the requirements necessary to qualify for loan forgiveness or grants. Rather than fulfill its responsibilities to these borrowers, PHEAA has instead prevented student borrowers from making qualifying monthly payments that count towards loan forgiveness, shifting the consequences of its loan servicing failures onto the student borrowers themselves.

The complaint links to PDF file also alleges that PHEAA has overcharged student borrowers and prevented them from staying on track with Income Driven Repayment plans that make their monthly payments more affordable. According to the complaint, PHEAA is aware of these problems but has failed to rectify the harms that PHEAA’s servicing failures have caused to student borrowers.

PHEAA is one of the largest student loan servicers in the country, managing more than a quarter of the nation’s \$1.4 trillion student loan debt on behalf of various lenders for millions of borrowers across the United States. PHEAA manages student loan accounts for hundreds of thousands of Massachusetts borrowers with a total outstanding principal balance exceeding \$5 billion.

The complaint against PHEAA seeks restitution, injunctive relief, civil penalties and reimbursement of the Commonwealth's costs and expenses for PHEAA's unfair and deceptive student loan servicing practices.

This case is being handled by Shennan Kavanagh, Deputy Chief, and Assistant Attorneys General Yael Shavit and Jared Rinehimer of AG Healey's Consumer Protection Division, with assistance from Paralegal Gabrielle Crossnoe. Assistant Attorney General Brook Kellerman of the Insurance and Financial Services Division also assisted with the investigation.

## **ATTORNEY GENERAL WINS JUDGMENT AGAINST COMPANY THAT DECEIVED CONSUMERS SEEKING STUDENT DEBT RELIEF**

Contact:

Rob Marus, Communications Director: (202) 724-5646; robert.marus@dc.gov

Marrisa Geller, Public Affairs Specialist: (202) 724-5448; marrisa.geller@dc.gov

WASHINGTON, D. C. – Attorney General Karl A. Racine announced today that his office won a judgment in Superior Court against Student Aid Center, Inc. and the company's owners, Ramiro Fernandez-Moris and Damien Alvarez, for unlawfully marketing student debt relief services to District consumers — including services that consumers could get for free from the U.S. Department of Education. The court found that the company misrepresented its services and unlawfully charged fees in advance of providing those services.

The case was filed by the Office of the Attorney General (OAG) last year and alleges that consumers paid fees between \$600 and \$1,000 and received little in return. It will now proceed to a remedies phase, where OAG will seek a permanent injunction preventing the company from misleading consumers regarding its business, refunds for consumers, and monetary penalties. Student Aid Center, Inc. has also been sued by the attorneys general of Florida, Kentucky and Washington state, and by the Federal Trade Commission.

“District students have the highest average student loan debt per borrower in the country, which makes them particularly vulnerable to debt relief scammers,” said Attorney General Karl A. Racine. “We will not tolerate companies that defraud our residents. We are working to hold businesses like this one accountable and deter others like them from targeting our residents in the future.”

In an order finding Student Aid Center, Inc. and its owners liable under the District's consumer laws, a D.C. Superior Court judge concluded that Student Aid Center made misrepresentations about its services, including misrepresenting that it was affiliated with the federal government. The Court also found that Student Aid Center and its owners unlawfully charged upfront fees for their services, which violates District law.

### **Student Loan Resources**

Students with questions about their student loans should visit OAG's Student Loan Resource Page. OAG's Student Loan Resource Page provides District residents with free resources about

repayment options and up-to-date information about how to manage student loan debt -- including a targeted one-page education piece on student loan scams. OAG's Student Loan Resource Page is available at [oag.dc.gov/studentloans](http://oag.dc.gov/studentloans).

Consumers with complaints against Student Aid Center, about debt-relief scams, or any other consumer complaint can contact OAG's Office of Consumer Protection through the OAG Consumer Hotline at (202) 442-9828, by sending an e-mail to [consumer.protection@dc.gov](mailto:consumer.protection@dc.gov), or online using OAG's Consumer Complaint Form.

## **INDIANA POKES U.S. SUPREME COURT: THAT ONLINE SALES TAX DECISION IS UNFAIR**

Holly V. Hays, [holly.hays@indystar.com](mailto:holly.hays@indystar.com)

Indiana has taken the next step in its effort to get the U.S. Supreme Court to overturn its 25-year-old ruling that allows online retailers to avoid charging state sales tax.

Attorney General Curtis Hill on Monday filed a response to a lawsuit on behalf of the state that asks Marion Superior Court to find a new state law constitutional. The law, which went into effect July 1, requires out-of-state businesses to collect and remit the same sales taxes as Indiana-based businesses.

The state "seeks to level the playing field" between Indiana businesses and out-of-state businesses conducting business online, according to a news release from Gov. Eric Holcomb's office.

American Catalog Mailers Association, a trade association advocating for catalog mailers, and NetChoice, an internet trade association, argued in a June 30 lawsuit against the state that House Enrolled Act 1129 was unconstitutional.

Holcomb wants the U.S. Supreme Court to overturn its 1992 ruling that out-of-state retailers not collect and remit sales and use taxes. The new Indiana law included a provision that the state legally challenge the Supreme Court ruling.

"In light of the rapid evolution and capabilities of software and technology, the incredible growth of online sales in recent years and other factors, it's time for the Supreme Court to revisit and overturn this ruling," Holcomb said. "Hoosier-based businesses need the ability to compete on a level playing field as soon as possible."

Hill's response to the June 30 lawsuit includes a complaint that online retailers Wayfair Inc. and Overstock.com Inc. are not collecting and remitting sales taxes.

Wayfair and Overstock sued South Dakota earlier this year for its 2016 law similar to HEA 1129.

Both states' laws require online retailers that make 200 separate transactions or have sales exceeding \$100,000 per year in the state to collect and remit sales tax. Both Wayfair and Overstock meet those criteria, according to Indiana's complaint.

From 2016 to 2017 e-commerce sales nationwide increased 14.7 percent while total retail sales rose 5.1 percent, according to the U.S. Department of Commerce.

In 2016 more than 40 percent of the state's \$18 billion revenue came from sales taxes. A study published by the Indiana Fiscal Policy Institute and Ball State University estimated that the state lost around \$77 million in 2012 because Indiana cannot collect all online sales taxes. A separate University of Tennessee study put that figure at \$195 million for the same year.

IndyStar reporter Kaitlin Lange contributed to this story. Call IndyStar reporter Holly Hays at (317) 444-6156. Follow her on Twitter: @hollyvhays.

## **INDIANA MAKES MOVES TO FORCE YOU TO PAY ONLINE SALES TAX**

Kaitlin L Lange, Statehouse Bureau Published

As online sales continue to rise and brick-and-mortar retailers suffer the consequences, there's another surprising loser: states.

A 25-year-old Supreme Court case — decided even before the birth of the largest e-commerce company, Amazon — prohibits states from collecting sales tax from businesses unless they have a physical presence in the state.

Indiana lawmakers, however, passed a law this spring claiming the state has a right to collect sales taxes from those using only online transactions. If companies abide by the state law, it could mean Hoosiers will pay more sales taxes starting July 1.

But if companies don't — which is likely — Indiana will find itself in a court battle.

“We anticipate further litigation and actually, we welcome the litigation,” said bill sponsor Sen. Brandt Hershman, R-Buck Creek.

For years, states have grappled with the 1992 Supreme Court case *Quill Corp. v. North Dakota* as online retailers started to dip into the revenue of traditional retailers.

Between the start of 2016 and 2017, e-commerce sales increased by 14.7 percent, while total retail only increased by 5.1 percent, according to the U.S. Department of Commerce. The impact is evident in the number of large retailers such as Sears and JCPenney that have announced they are closing stores.

As a result, the state is losing some of its largest source of revenue: sales taxes. In 2016, more than 40 percent of the state's \$18 billion revenue came from sales taxes.

A study published by the Indiana Fiscal Policy Institute and Ball State University estimated the state lost around \$77 million in 2012 because Indiana cannot collect all online sales taxes, while a separate University of Tennessee study put that figure at \$195 million for the same year.

The Indiana Department of Revenue declined to release their current estimates, due to "imminent pending litigation."

The state is still able to collect some of its online sales taxes, through agreements with nearly 2,000 companies, including Amazon, which add state sales tax to purchases. But many others have refused to do so.

By law, consumers are also supposed to pay that tax later themselves as a use tax, however Appropriations committee chair Luke Kenley, R-Noblesville, estimated less than 5 percent of Hoosiers remit that tax on their annual tax returns.

According to a fiscal analysis from the Legislative Services Agency, the state only made \$2 million in use tax collected on tax returns.

Congress has the authority to regulate interstate commerce, so it could pass legislation allowing for online sales taxes. For more than a decade groups, like the National Conference of State Legislatures have lobbied Congress for such a law — with little success. In 2013, the Senate passed the Marketplace Fairness Act, but the bill couldn't get the support of the House.

A law was proposed in Congress this year that could still go somewhere, but many states have decided to take the matter into their own hands.

Online giants Wayfair Inc., Overstock.com Inc. and Newegg Inc. are now suing South Dakota for its 2016 law that nearly mirrors the one passed in Indiana this spring.

Both the Indiana and South Dakota laws require online retailers that make 200 separate transactions or have sales exceeding \$100,000 per year in the state to collect and remit the sales tax.

The case is now being debated in the top South Dakota court and could make its way to the U.S. Supreme Court.

Indiana lawmakers want the court to intercede in hopes that it would affirm the state's right to collect the tax.

"We're pretty confident that we can win," Kenley said.

Apart from his desire to build up the state's revenues, Kenley also worried about the stores operating within Indiana that are required to collect the 7 percent sales tax, while online retailers with no physical presence in Indiana are not. After all, Indiana has the second-highest state sales tax in the U.S.

“It’s becoming a bigger problem and a bigger issue of fairness,” Kenley said. “It’s kind of a big issue to our brick-and-mortar stores because they’re at a disadvantage here, and they do something for the state by operating in the state and employing people in the state.”

Those opposed to the online sales tax see it differently. NetChoice, a trade association of e-commerce businesses, argues adhering to the tax codes in every state and city would be "bureaucratic gymnastics."

The association is pushing for their own legislation protecting online-only companies from state taxes: the No Regulation without Representation Act of 2017.

But Grant Monahan, the president of the Indiana Retail Council, said those who have a physical presence in the state are at a significant disadvantage. That should change, he argued.

"We know that retailing is tough and competitive, and that’s not going to change," Monahan said, "but it should be a level playing field when it comes to collecting and remitting sales tax."

Call IndyStar reporter Kaitlin L. Lange at (812) 549-1429. Follow her on Twitter: @kaitlin\_lange.