

STATE ATTORNEYS GENERAL PRACTICE



Today's State Attorneys General (AG) play a more integral role in the daily functioning of companies and organizations than their predecessors from just 25 years ago. State AGs' influence now extends beyond local jurisdictions, impacting nationwide regulations and individual businesses directly. As political actors, public policy advocates, enforcers, and regulators, modern State AGs possess powers that can substantially disrupt company operations. They increasingly coordinate their activities against targeted industries and specific organizations or company practices, or for or against federal policies and actions that can significantly alter the broader regulatory landscape. State AGs' focus on a particular industry or organization can lead to increased operational costs, risks, and regulatory uncertainty.

Husch Blackwell actively represents clients before State AGs, reflecting the growing challenges businesses face at the state level. Our State Attorney General Practice has grown in response to clients' increasing needs, and we assist in litigation, antitrust matters, investigations, regulatory issues, and advocacy by State AGs. We also collaborate with State AGs on public policy stances and significant national cases, spanning from state court to federal district and appellate courts to the U.S. Supreme Court. Our goal is to preemptively address concerns for our clients and vigorously defend their interests when required.

Collectively, our professionals have decades of experience working in and with State AG offices, and our team includes a former State Attorney General who served as president of the National Association of Attorneys General, former U.S. Attorneys, and seasoned litigators and investigators with

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experience in both the public and private sectors. With our knowledge and relationships, we effectively represent clients' interests and work proactively to prevent investigations from escalating into litigation.

Husch Blackwell's State AG team leverages its extensive relationships with State AGs across the nation and sharp litigation skills from high-stakes civil cases and sensitive investigations. Integrated with our government solutions and litigation groups, we offer clients a comprehensive strategy to tackle regulatory, policy, investigative, and enforcement challenges.

Case Study

Commonwealth of the Northern Mariana Islands

The Commonwealth of the Northern Mariana Islands (CNMI) watched with great concern as another U.S. territory (Guam) fought the U.S. Government in court over financial responsibility for a hazardous waste site initially developed and operated by the U.S. Navy. After losing on appeal in the D.C. Circuit, Guam convinced the U.S. Supreme Court to hear its case. Fearing how negative precedent could affect other U.S. states and territories, CNMI's Attorney General approached Husch Blackwell to prepare an *amicus curiae* brief.

Agriculture and energy

With growing scrutiny of their business practices, the agricultural and energy sectors are increasingly common areas of litigation and regulatory actions from State AG offices. We routinely represent clients, including numerous major agricultural organizations, in these matters, and our attorneys have experience challenging environmental

policies in federal court. We have also filed amicus briefs in high-stakes U.S. Supreme Court litigation on energy policy of national significance. Our team includes a former chair of a state Senate agriculture committee, as well as a veteran of the National Association of Attorneys General agriculture committee.

Antitrust

Our attorneys routinely handle investigation and litigation of high-profile merger, price-fixing, and wage-fixing cases in healthcare, technology, telecom, media, finance, and transportation, among other industries. As just one example, we have collaborated on some of the nation's most significant recent healthcare antitrust matters, including *FTC and State of Idaho v. St. Luke's Health System*, which addressed integration and consolidation of healthcare providers in the wake of the Affordable Care Act (ACA).

Consumer protection

Our attorneys advise clients on a broad array of issues, including advertising practices, consumer disclosures, and compliance with myriad laws regulating consumer interactions. We represent clients facing State AG consumer protection investigations, and one of our attorneys is former chair of the Consumer Protection Committee of the National Association of Attorneys General. We routinely appear before State AGs, the U.S. Federal Trade Commission (FTC), and the U.S. Department of Justice (DOJ) on consumer protection matters and have litigated complex consumer protection disputes involving a diverse range of industries. In one recent example, our attorneys defended a prominent mobile phone company executive accused of civil consumer fraud by the FTC and charged criminally in the U.S. District Court for the Southern District of New York, obtaining a

sentence of time served despite a Guidelines-recommended sentence of more than 25 years imprisonment.

Financial services

Our attorneys have significant experience with regulatory and enforcement issues in the financial services industry. With myriad federal laws and agencies—the Consumer Financial Protection Bureau (CFPB) is one prominent example—increasingly authorizing and encouraging State AGs to act against practices the government considers deceptive or abusive, Husch Blackwell’s deep bench in its Financial Services & Capital Markets team stands poised to defend our clients.

Healthcare & pharmaceuticals

Our attorneys offer comprehensive counsel and solution-driven services to combat increased investigation and enforcement of, among other things, Medicaid fraud allegations, healthcare false claims actions, and State AG review of health-care-related mergers.

Amicus briefs & appellate advocacy

Our attorneys have the experience to position, draft, and gain amici support from State AGs in cases that directly affect our clients or that have the potential to shape the regulatory environment in which our clients operate. Our attorneys have partnered with State AGs to build broad coalitions in support of our clients in sensitive, enterprise-threatening civil litigation, including before the United States Supreme Court and various federal appellate circuits.

Federalism

As industries come under increasing regulation on the federal and state levels, our attorneys have engaged State AGs on significant constitutional and statutory matters addressing preemption, the sovereignty of the states to enforce their own laws, and the proper roles of the federal government and the states. One of our attorneys has successfully defended before the U.S. Supreme Court the authority of a state to enforce its laws despite claims of federal preemption.

Legislative & regulatory actions

We have experience persuading State AGs to engage in regulatory decision-making and legislative processes, using their legal position to influence policy outcomes. Our attorneys have had success engaging trade associations, interest groups, and media to achieve results in this arena for our clients.

Representative Experience

Secured six-state amicus brief in support of petition for certiorari before United States Supreme Court regarding a Seventh Circuit decision upholding so-called “single incident” *Monell* municipal liability in context of rogue employee guilty of prison rape. Brief authored by Louisiana argued that municipal liability in this context exposes states and their taxpayers to grave financial harm and increases federal power over states by usurping control over municipalities.

Secured 11-state amicus brief in E.D. Ca. district court in

support of Monsanto and agricultural coalition in suit against State of California to prevent California from requiring Monsanto to place disparaging carcinogen label on Roundup product. Brief authored by Missouri argued that (1) California's speech mandate undermines sensible consumer protection laws and policies by imposing inconsistent obligations across the states and diluting the efficacy of other states' disclosure requirements; and (2) California's speech mandate intrudes on the sovereign interests of other states.

Secured bi-partisan 30-state amicus brief in support of petition for certiorari before United States Supreme Court regarding a Fifth Circuit decision upholding dismissal of the client's petition alleging that relative to a bankruptcy court decision extinguishing an easement property interest, the bankruptcy court lacked jurisdiction over the property under the Eleventh Amendment and that its failure to provide appropriate notice violated its due process rights.

Secured bi-partisan amicus brief in D. D.C. and D.C. Cir. in support of Energy Transfer in high-stakes NEPA litigation regarding closure of the Dakota Access Pipeline that transports in excess of 570,000 barrels of Bakken crude oil from North Dakota to Louisiana.

Secured 14-state amicus brief in the District of Columbia district court in support of the U.S. Army Corps of Engineers in case regarding closure of the Dakota Access Pipeline.