
State Attorneys General

Investigations, litigation and enforcement actions launched by state attorneys general are becoming increasingly commonplace, and present unique challenges that require a specific skillset to address.

Companies engaged with state attorneys general (AGs) face formidable challenges and a range of reputational, practical and legal considerations. State AG offices have broad powers to draw upon in order to examine and challenge an organization's conduct, leaving companies to navigate complicated legal, public relations and crisis management hurdles. WilmerHale's State Attorneys General Practice Group draws on the firm's experience at the highest levels of state AG offices, its strength across the varied areas of state AG enforcement authority, and its deep-seated crisis management experience. As a result, our team has the insight to advise on state AG priorities and procedures, to resolve complicated investigations and litigation, and to argue and win in court. We understand that the government is not an ordinary civil litigant, and that it often has a credibility advantage over its targets. As our track record against state AGs shows, we have the strategic vision and tactical skills to counter that advantage and persuasively tell our clients' stories.

The State Attorneys General Practice—co-chaired by the former Chief of Staff to the New York AG Brian Mahanna and the former Chief Deputy to the Wisconsin AG Paul Connell—includes attorneys who have served at the most senior levels of government and bring deep policy and industry experience to matters. They harness this insight to help clients anticipate issues that could trigger scrutiny and establish productive relationships with AG offices. For clients facing an AG investigation—whether by individual states, including the increasingly active AGs of New York, California, Texas, Massachusetts and Washington, or by a combination of AGs working together—our team possesses a critical understanding of the wide-ranging challenges that can result and the best path to resolution.

Capabilities

We have handled matters on behalf of clients in all 50 states, the District of Columbia and the US Virgin Islands. We also have significant experience effectively coordinating and representing companies in multistate AG investigations, including investigations of alleged unfair and deceptive acts and practices, as well as parallel proceedings. We skillfully navigate

all options available for resolution and settlement, and when litigation is required and the stakes are high, we offer deep trial experience against state AGs—with a track record of success.

Our lawyers are well known and respected among the AG ranks. We work regularly with key members of state AG offices and understand their priorities, so we are well positioned to offer clients a clear and nuanced perspective on how AGs and other government agencies approach issues within their purview. That intra-agency perspective is crucial for state AG matters—state AGs often investigate alongside other regulators, including the Securities and Exchange Commission, the Federal Trade Commission, the Federal Communications Commission, and the Department of Justice, and WilmerHale’s broad government experience means we are well equipped to work with any agency involved.

Beyond our AG and agency experience, we also have the substantive knowledge in the areas on which AGs focus to effectively advocate for clients. Our lawyers include leaders in antitrust, False Claims Act actions, consumer protection investigations, cybersecurity and privacy and beyond, as well as practitioners who are well versed industries that range from pharmaceuticals and healthcare to communications, financial services, energy and the environment.

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TECHNOLOGY

- Won a resounding victory for clients T-Mobile and Deutsche Telekom in a landmark antitrust trial in which AGs from 13 states and the District of Columbia sought to enjoin the merger of T-Mobile and Sprint.
- Represented Comcast at trial in litigation brought by the Washington AG alleging violations of the state's Consumer Protection Act. Successfully prevailed on summary judgment on one of the state's claims and prevailed on a "half-time" motion to substantially curtail the scope of the remaining claims.
- Represent Intuit in multi-fora consumer protection investigations and litigation, including by the Federal Trade Commission, state attorneys general, a state regulator and state subdivisions.
- Representing a global telecommunications provider in an investigation by five state AGs related to allegations of false advertising.
- Represented a large technology company in a subpoena from the New York AG and Investor Protection Bureau regarding disclosures about various metrics.
- Represented a high-tech company in a successful federal court challenge to an investigation by the Mississippi AG.
- Serve as lead counsel for a global technology company on various investigations, including state Attorney General investigations, related to a high profile privacy incident.
- Assisting a global technology company with overall strategy and engagement, as well as with responding to inquiries from State AGs.

FINANCIAL SERVICES

- Serving a financial institution as national coordinating counsel for state AG inquiries related to the Paycheck Protection Program and Covid-19 issues.
- Representing an investment fund in connection with a potential New York AG inquiry into possible market manipulation related to Puerto Rico debt.
- Representing a financial services company in an inquiry by the Massachusetts AG regarding cash sweep vehicles and overdraft charges.

- Representing a financial institution regarding a New York State AG inquiry on fraud detection and customer reimbursement practices.
- Representing a financial institution with a New Jersey AG inquiry and possible litigation around discriminatory lending.
- Represented Chase in connection with the California AG's investigation into the bank's debt collection practices.
- Obtaining total dismissal with prejudice of all claims against Texas Attorney General Ken Paxton, who was sued (in his personal capacity) by the SEC for securities fraud.

HEALTHCARE AND PHARMACEUTICALS

- Representing a multinational retail corporation facing investigations or litigation from attorneys general from every state and territory related to the opioid crisis.
- Advised and represented a multinational retail company in responding to numerous independent inquiries by multiple attorneys general related to COVID-19 vaccines.
- Assisting a healthcare company with response to New York AG request for information concerning the sale of essential goods during the COVID-19 pandemic.
- Representing a pharmaceutical company facing potential state AG investigations, as well as congressional inquiries and potential investigations by the Department of Justice and the Department of Health and Human Services, arising from charges of data manipulation at a subsidiary of the company.
- Advised Bristol-Myers Squibb in state AG action related to claims that it violated consumer protection laws in the marketing of one of its products.
- Represented Oracle in multiple lawsuits brought by the Oregon AG, stemming from the company's work on Oregon's healthcare exchange created under the Affordable Care Act.

ENERGY AND ENVIRONMENT

- Represented a utility company in a multifaceted inquiry following an accident, which involved a Massachusetts AG inquiry and numerous other agencies and proceedings.
- Advising a Fortune 100 company on potential AG actions over alleged environmental liabilities.
- Representing a railroad company in a multifaceted inquiry following an accident, which involves an AG inquiry and numerous other agencies and proceedings.

MEDIA AND ENTERTAINMENT

- Successfully represented the Berkshire Museum in multiple appellate proceedings and a wide-ranging investigation by the Massachusetts AG in relation to the Museum's art collection, including two paintings by Norman Rockwell.
- Represented a large media company in connection with the New York AG's investigation regarding #MeToo-related allegations.