The Daily Docket | Reuters | Diana Novak Jones, Mike Scarcella and Sara Merken | May 1, 2024

Good morning. The largest transatlantic law firm merger in years is official today as Allen & Overy and Shearman & Sterling link up. Plus, the law firms behind an antitrust lawsuit accusing 17 elite universities of favoring wealthy students for admission are asking for almost $100 million in fees for their work so far, Harvey Weinstein is back in court today, and a group of Google workers who were fired after protesting the company's contract with the Israeli government say they were illegally terminated. May, already?

A&O Shearman joins ranks of major transatlantic law firm mergers

Allen & Overy and Shearman & Sterling said that they have completed their long-planned merger, officially launching the largest transatlantic law firm combination in years. They said the union creates a firm with nearly 4,000 lawyers and 3,000 other employees across 47 offices, generating combined revenues of about $3.5 billion.

Leaders of the new firm, A&O Shearman, said they expect a smooth debut after nearly a year of preparations by London-founded Allen & Overy and its smaller counterpart Shearman, which was among the top old-line New York law firms.

Transatlantic mergers between such large, established firms have remained relatively rare even after decades of legal industry consolidation, stymied by factors such as client conflicts and mismatched rates and compensation.

Here's a look at other major law firm mergers.

More top news

> J&J advances $6.475 billion settlement of talc cancer lawsuits

> IBM wins reversal of $1.6 billion judgment to BMC over software contract

> Ex-Google workers say firings for protesting Israel contract were illegal

The buzz

- Pass rates on the February 2024 bar exam are trending up, following what has been a multi-year slide in many states. Among the 42 jurisdictions that have reported February results thus far, 31 have a higher overall pass rate than in February of 2023, according to data compiled by the National Conference of Bar Examiners. That includes all 10 of the largest bar exam jurisdictions that have released results, though the District of Columbia's pass rate held steady at 45%.
- Three law firms behind an antitrust lawsuit that accused 17 elite U.S. universities of unlawfully favoring wealthy students for admission asked U.S. District Judge Matthew Kennelly in Chicago to award them $94.7 million in legal fees for their work in the case so far. The firms, Freedman Normand Friedland, Gilbert Litigators and Counselors, and Berger Montague, have reached $284 million in settlements with 10 of the schools since filing the lawsuit in 2022.
- The ABA won its bid to toss a proposed class action over a 2023 data breach that exposed the personal information of about 1.5 million lawyers and others. A New York federal judge granted

the national lawyer group's motion to dismiss the case, finding the plaintiffs did not provide enough evidence to support their claims.

$30,000,000,00

That's how much in new claims PacifiCorp, a utility owned by Warren Buffett's Berkshire Hathaway, faces over Oregon wildfires in 2020, nearly four times the maximum loss it had projected. One thousand victims filed claims against PacifiCorp in Portland state court. The claims were filed two months after Buffett warned in his annual shareholder letter that wildfires could threaten the survival of utilities in a few states, an outcome he had not anticipated.

"The evidence submitted at this stage in the proceedings suggests that Hermalyn has struggled with candor to the Court."

—U.S. District Judge Julia Kobick in Boston, who severely restricted what services former DraftKings executive Michael Hermalyn could provide sports betting rival Fanatics after finding he likely misappropriated valuable trade secrets before taking a new job. Kobick stopped short of barring Michael Hermalyn from working for Fanatics, but said the evidence showed that Hermalyn had likely violated a non-compete agreement that he signed while working at DraftKings

Coming up today

- Tesla is expected to ask a Delaware judge to reject a request for a $6 billion legal fee sought by the attorneys who voided Elon Musk's $56 billion pay package as excessive. The fee implies an hourly rate of $288,888 for the work that each of the 37 lawyers, associates and paralegals spent on the case, according to documents filed in the Court of Chancery.
- Harvey Weinstein is scheduled to appear in court after a court overturned his rape conviction, giving the one-time film mogul a chance at a new trial and calls into question what evidence prosecutors can use in future sex crime cases. In a bitterly divided 4-3 ruling last week, the New York Court of Appeals said the trial judge overseeing Weinstein's case made a critical mistake by letting women testify that Weinstein assaulted them, even though their accusations were not part of the charges he faced.
- The 5th Circuit will consider whether to revive a lawsuit by the Pharmaceutical Research and Manufacturers of America and two other groups challenging a new program that allows Medicare to negotiate prices with drug companies for selected costly drugs. The ruling in February dismissing the lawsuit marked a victory for the Biden administration in its defense of the negotiation program, one of Biden's signature initiatives.

In the courts

- The 10th Circuit upheld a Biden administration rule requiring government contractors to pay seasonal recreational workers at least $15 an hour, prompting a dissenting judge to claim that Congress has given the president too much power to regulate federal contracting. The court in a 2-1 ruling said the president's authority under federal law to create an "economical and efficient system" of procurement extends to dictating the wages of workers even when they do not directly provide services to the government.
- A group of newspapers owned by investment firm Alden Global Capital, including the New York Daily News and Chicago Tribune, sued Microsoft and OpenAI in New York federal court, accusing them of misusing reporters' work to train their generative artificial-intelligence systems. The complaint follows similar ongoing lawsuits brought by the New York Times and news outlets The Intercept, Raw Story and AlterNet.

- The NLRB urged the 6th Circuit to uphold its ruling that common provisions in employee severance agreements violate federal labor law. A three-judge panel heard arguments in Michigan hospital operator McLaren Macomb's challenge to the decision, which said agreements signed by workers furloughed during the COVID-19 pandemic unlawfully discouraged them from communicating with their union and the NLRB.
- The real estate brokerage unit of Warren Buffett's Berkshire Hathaway was hit with a proposed class action accusing it of charging commissions that artificially inflated the cost of buying a home in the U.S. The lawsuit against HomeServices was filed on behalf of home buyers, days after the company said it would pay $250 million to resolve nationwide claims from home sellers who challenged the same commission.
- The U.S. Supreme Court declined to block a Texas law requiring online age verification in order to access pornographic websites in a case pitting the Republican-led state's effort to keep adult content away from minors against constitutional free speech protections.

Industry moves

- Thompson Hine added immigration partner Kelli Hayes in Columbus, Ohio, from Dinsmore & Shohl. (Thompson Hine)
- Ropes & Gray hired Sarah Walters as a partner in Boston. Walters was previously with McDermott Will & Emery. (Ropes & Gray)
- Clark Hill absorbed Boulder, Colorado-based firm LaszloLaw, which has focused on the food, beverage and hospitality industries. Theodore Laszlo and Michael Laszlo will join as partners. (Clark Hill)
- Corporate immigration firm Berry Appleman & Leiden hired a group of immigration lawyers from Seyfarth Shaw, including partners Russell Swapp, James King, Gabriel Mozes, Sharon Cook, Michelle Gergerian and Jason Burritt. (BAL)
- Smith, Gambrell & Russell brought on four lawyers in New York, including corporate partner Henry Roske from H. Roske & Associates and real estate partner Shane O'Neill from Ingram. (Smith, Gambrell & Russell)
- Dechert added D.C.-based fintech and cryptocurrency regulatory partner Neel Maitra. He previously was at Wilson Sonsini. (Dechert)
- King & Spalding added Barry Kamar to its special matters and government investigations group in Miami. He most recently was at Meland Budwick. (King & Spalding)
- **Saul Ewing brought on real estate partner Donald Lussier in Boston. He returns to the firm from Pierce Atwood. (Saul Ewing)**

Lawyer speak: DOJ criminal division's new voluntary self-disclosure program still uncertain and risky

The DOJ on April 15 released its "Criminal Division's Pilot Program on Voluntary Self-Disclosures for Individuals." The pilot program provides some level of additional guidance and transparency and is laudable in its objective to further the department's goal of "vigorously investigating and prosecuting federal criminal offenses," writes Elisha Kobre of Bradley. However, because the program contains uncertainty and risk, it is likely that many defense counsel will remain hesitant to advise clients to self-disclose in the hopes of obtaining a non-prosecution agreement under the program.