Civil Rights Suit Survives in US Citizen’s Protest Over ICE Detainer
by Zach Schlein

A federal judge in Florida has issued an order allowing a civil rights lawsuit against Miami-Dade County to proceed.

U.S. District Judge Kathleen Williams ruled that Miami-Dade County’s policy of cooperation with the U.S. Immigration and Customs Enforcement agency may have violated Garland Creedle’s Fourth Amendment protections from unlawful search and seizure. Creedle’s suit alleges he was unlawfully detained by Miami-Dade police because of an ICE-issued detention request.

The defendants named in Creedle’s complaint — including Miami-Dade County, the Department of Homeland Security and ICE — all filed motions to dismiss the suit. Although Williams granted them in part, the judge ultimately ordered all three parties to respond to the plaintiff’s suit within 14 days.

According to the judge’s ruling, Creedle, a U.S. citizen from birth, was arrested March 12, 2017, “after an alleged domestic dispute and taken to the Miami-Dade County Jail.” Although no charges were filed relating to his arrest, Creedle was forced to remain in police custody after posting bond due to the filing of an ICE detention request against him.

William Perry, CEO and managing shareholder of Gunster, expects to be able to capitalize on the growing Florida economy and state benefits from the federal tax overhaul.

Florida Law Firm Leaders Expect Bull Market Heading Into 2019
by Scott Flaherty

Top brass at several of South Florida’s prominent law firms have a strong sense of optimism looking ahead to 2019, a year they expect will keep transactional, real estate, land use, tax and immigration lawyers busy.

Interviews with managing partners and executives at statewide and national firms with a large presence in South Florida revealed the leaders are bullish amid speculation the U.S. economy is due for a recession. They said they expect Florida’s economy to stay hot regardless of what happens nationwide — but some have plans in mind if demand drops for certain practice areas.

William Perry, CEO and managing shareholder of Gunster, said Florida remains a highly attractive place for investors and other newcomers. He explained the federal tax overhaul passed late last year has heightened that attraction since other states were more heavily impacted by limits on deductions for state and local taxes.

“We’re still in a growth mode of some 1,000 people a day moving into the state,” he said.

6 Plaintiffs Attorneys Open Civil Litigation Law Firm
by Dylan Jackson

Plaintiffs attorneys Joe Osborne and Greg Francis have launched their own firm, Osborne & Francis — a six-attorney firm that will focus on a wide range of civil litigation, including medical device and personal injury cases.

Osborne has been operating his own Boca Raton-based firm — Osborne and Associates — since 2015, where he specialized in mass tort cases involving defective hip implants and other product liability.

Francis left his role as a shareholder at Morgan & Morgan in Orlando earlier this year. In his time there, Francis focused on medical malpractice, police misconduct, wrongful

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Accused Parkland Killer Charged in Jail Guard Attack
by Zach Schlein

Accused shooter Nikolas Cruz got in an altercation with a law enforcement official assigned to guard him at the Broward County Jail shortly before 6 p.m. on Tuesday, according to the Broward Sheriff’s Office.

Now, Cruz is facing new felony charges. In addition to charges that could land him on death row for the Feb. 14 shooting that left 17 dead and 17 injured at the Marjory Stoneman Douglas High School in Parkland, Cruz has now been charged with assault and battery on an officer, as well as using a self-defense weapon or device against a law enforcement officer.

The arrest report alleges Cruz raised his middle finger before attacking Sgt. Raymond Beltran.
Looking for a Partner in Legal Industry Growth? Check the Marketing Side
by Cynthia Voth

The legal industry has undergone unprecedented change in recent years. Clients are demanding new pricing strategies. Competition now includes alternative legal service providers — including the Big 4 accounting firms and clients taking more work in house. And artificial intelligence is changing how clients access — and law firms deliver — legal services.

In the face of these changes, managing partners may feel hard-pressed to stay on top of it all. Fortunately, within most law firms, there are professionals who will not only help your firm stay ahead of these changes but also thrive in spite of them.

That professional is your legal marketer.

Consider these examples. A global law firm was experiencing a loss of revenue due to client work declining or going dormant but didn’t know what was causing it. The firm’s marketing team hypothesized that they could take a big data approach to predict not just who and why those clients were at risk of shrinking or leaving the firm but also and why those clients were at risk of shrinking or leaving the firm but also.

Several statistics from LMA's 2018 joint survey with Bloomberg Law, titled “Where Are We Now? Revealing the Latest Trends in Legal Marketing and Business Development,” underscore this statement.

The survey looked at whether law firms are investing in marketing, shifts in legal marketer roles and responsibilities, their relationships with attorneys, and the increasing role of technology in marketing and business development. Survey respondents included both attorneys and legal marketers.

The survey results reinforced that legal marketers are taking a bigger role in the business of law — and firms are reaping the benefits.

• More than two-thirds of survey respondents said the top marketers in their firms are participating in strategic planning committees, lawyer professional development and other firm leadership meetings.

• Across firm sizes, half of respondents reported that their firms employ someone with a chief marketing officer title, and 2018 saw an increase in the number of CMO positions that have existed for 10 years or more.

• Forty-one percent of attorneys reported hiring or increasing marketing staff as one of the top investments in the past two years that has been most effective in developing new business.

As this seat at the table grows, legal marketers are also increasingly driving business strategy conversations. They are seeing legal marketers spearhead marketing strategies that shift away from highlighting individual attorney capabilities and instead showcase the story of the firm.

The new legal frontier places value on how firms approach clients and client relationships. Legal marketers’ roles in marketing, process improvement and design thinking are the new key differentiators for law firms — and legal marketers are proving to be experts in foreseeing and navigating the changing landscape of the legal industry.

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• Artificial intelligence will continue to expand and change the way legal services are delivered, and will be joined by other new technologies, including blockchain and virtual and augmented reality.

• Standardization of matter coding will enable a new level of data analytics, consistency and transparency across the industry.

Change can be a challenge for firms, but remember that you have partners in your legal marketing professionals. They are the experts in foreseeing and navigating change and are leaders in the legal industry.
Broward Lawyers Negotiate Settlement for Students Allegedly Molested at Religious School

by Raychel Lean

Scott Mager and Brian Paruas of Mager Paruas in Hollywood said they received various phone calls urging them to drop the lawsuit.

Counsel to Hussain, Robert E. Paradelo of Wicker, Smith, Smith & Forti in Fort Lauderdale represented the school, while Lommi Tessler of Cole, Scott & Kissane's Plantation office represented the school's mosque. Neither responded to requests for comment before deadline.

When police charged Ahmad in 2014, CBS Miami reported that the school said in a statement, “Recently, we have become aware of disturbing allegations regarding a former teacher. ... Upon learning of these allegations the academy immediately suspended the teacher’s employment.”

The lawsuit also accused president Hussain of telling a Jane Doe that she was emotionally responsible for what happened to her.

Mager compared the case to a recent wave of historic sexual abuse claims against the Catholic Church, which has been widely criticized for an alleged culture of silence.

"Endless nothing to do with an attack on Muslims or the Muslim faith," Mager said. "It has to do with protecting our children. I don’t care what faith you are. Justice is important.”

Throughout the case, Mager consulted with Islamic scholars and religious experts, who he said were glad to see the issue publicized.

"This is uncorking a river flow of exposure that needs to happen,” Mager said. "In my 30 years of practicing, I’m proud to have championed the rights of women when other people wouldn’t, when it would have been much easier to just get away from this.”

Mager said the case devastated him. "Ten years later, these kids are just in a wreck. Their families abandoned them because it was unacceptable to come out with this, so they were truly alone,” Mager said.

Raychel Lean reports on South Florida litigation for the Daily Business Review. Send an email to rlean@alm.com, or follow her on Twitter via @raychellean.

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Alleging Fraud on Court, Prosecution Seeks Jail for Greenspoon Marder COO

by Christine Simmons

The prosecution is seeking jail for former Dewey & LeBoeuf executive Joel Sanders, who became the first installment of a $1 million fine for a felony convictions tied to the firm’s collapse.

Sanders, chief operating officer at Florida-based Greenspoon Marder, is urging a South Florida judge to reduce or revoke the fine due to his “dire financial circumstances.”

The Manhattan District Attorney’s Office has also accused Sanders of misleading the court, noting he has extensive assets, including an oceanfront condo in Sunny Isles Beach, a $675,000 Long Island house where Sanders owned about $1 million in liquid assets and securities, leases on luxury vehicles and at least a $350,000 salary at Greenspoon Marder.

The dispute comes about a year after Sanders, in an unusual sentence, was given no jail time for engaging in a fraudulent scheme while serving as the chief financial officer of Dewey, which collapsed in 2012.

Stolz gave Sanders a conditional discharge and ordered him to pay the $1 million fine in three annual payments over three years. If Sanders failed to pay the fine, he “shall be imprisoned for one year until the fine is satisfied,” according to the order signed by Stolz on Oct. 16, 2012. That order ordered 750 hours of community service.

Prosecutors said Sanders should be jailed until he can pay. “He continued to live a high life here,” Assistant District Attorney Peirce Moser said in newly filed court papers. “He seems to believe there are and should be different sets of rules for victims of criminal justice, one for rich people like him, and one for all others.”

In papers filed last month, Sanders’ defense attorney, Christopher Oprison, a DLA Piper partner, urged the judge to revoke or reduce the $1 million fine.

Sanders is unable to pay the first installment of $333,333 “despite best efforts to earn, raise, generate or borrow the funds to do so,” Oprison said.

Sanders has completed 314 community service hours, “all the while working full time,” Oprison said. Firm co-managing director Gerald Greenspoon wrote a letter of support to Stolz, urging the judge to reduce the fine. “His departure for any reason would be a serious detriment to the firm, his staff and our partners,” Greenspoon said.

Oprison said Sanders is not有能力支付罚款因为“negative” and “impose an undue hardship” on Sanders and his family. Dennis DiCarmine, former chief financial officer of Greenspoon, Sanders' gross annual salary increased from $275,000 in 2012 to $375,000 in 2018. After taxes and deductions, this net income is less than $200,000 year to date, Oprison said.

"Sanders' personal financial obligations exceed his family's income, and requires him to live in a smaller house sold for $760,000. Even if Stolz were to determine that Sanders cannot afford to pay the fine, however, Sanders is unable to pay the principal of $333,333 “despite best efforts to earn, raise, generate or borrow the funds to do so,” Oprison said.

Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he admits,” and a declaration of Sanders' current assets “are in fact greater than he adm
Miami Law Class Action & Complex Litigation Forum
CUTTING-EDGE ISSUES IN CLASS ACTION/MASS TORTS + MDL

FRIDAY, DECEMBER 7, 2018

PARTICIPATING JUDGES:

The Honorable
Cecilia M. Altonaga
U.S. District Court, S.D. Fla

The Honorable
Robert M. Dow Jr.
U.S. District Court, N.D. Ill.

The Honorable
Sara L. Ellis
U.S. District Court, N.D. Ill.

The Honorable
Eldon E. Fallon
U.S. District Court, E.D. La

The Honorable
Jose L. Linares
U.S. District Court, D.N.J.

The Honorable
David Proctor
U.S. District Court, N.D. Ala.

The Honorable
Amy J. St. Eve
U.S. Court of Appeals, 7th Cir.

The Honorable
John W. Thornton, Jr.
11th Judicial Cir. Fla.

Keynote Speaker
David Boies
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CLE 8.5 general credits*
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she said, might also impact development in the renewable energy sector.

At Berger Singerman, all four practice teams — business reorganization; business, finance and tax; dispute resolution; and government and regulatory — have been busy, said firm co-chairman Paul Singerman. He noted his firm’s bankruptcy and restructuring group and the deal lawyers have had particularly active periods, and he expects all of the practice teams will have solid years in 2019.

“We’ve made a deliberate effort to stick to our knitting,” said Singerman. “We distinguish ourselves by generally not doing commodity work; we think that for a lot of reasons, the firms that have adopted models that revolve around commodity work will face continuing pressure.”

While several firm leaders said real estate, land use and construction practices would be active in 2019, Mitch Burnstein, managing director of Weiss Serota Helfman Cole & Bierman, noted that type of work might change its focus.

Following construction of skyscrapers and other large developments in over the recent years, he doesn’t expect as much new construction. But developers have found novel ways to repurpose, revamp and expand existing buildings, meaning there should be plenty of work for real estate and land use lawyers in 2019.

“There’s less new development coming out of the ground now, so you’re not going to see the same level of new residential construction. On one hand that is slowing down the private land use practice,” said Burnstein. “But there is a silver lining to this — developers are more creative in developing and holding properties.”

EYES ON EXPANSION

All of the firm leaders interviewed for this article said they have their eyes on expanding their South Florida lawyer headcount with prospects for business looking good in 2019.

“Foley’s got a strong eye on growing the office here,” said Smith, referring to Foley & Lardner’s 29-lawyer Miami outpost. “When you look at the economic numbers for the state of Florida in terms of driving the economy of the nation, given where we are size-wise here in South Florida, we need a larger footprint.”

Gurland said Duane Morris is likely to expand its Miami office, and hiring efforts could focus on corporate, transactional or real estate lawyers with books of business. But he also noted that, while it might seem counterintuitive, he views 2019 as a good time to staff up in bankruptcy and restructuring.

The economy is hot now, but Gurland wouldn’t be surprised to see it level off or dip, perhaps toward the end of 2019, meaning lawyers with experience representing financially struggling businesses might be in higher demand.

TECH IMPACT

Virtually all of the firm leaders also said recent technological changes, such as ROSS Intelligence’s artificial intelligence-powered legal research tools, are likely to play a part in how their firms operate and approach cases.

None of the leaders said they expect AI or anything else to fully take the place of lawyers, but they said technology is changing how lawyers work and in many cases reducing the level of back-office support necessary to run a law firm. Those trends are likely to accelerate as technology advances, firm leaders said.

“If I’m doing a deal, you’re still going to need a lawyer; and ROSS is not go-ing to try a case or take a deposition,” said Singerman. But he added, “Those human actions follow a whole bunch of preparatory work that technology is going to abbreviate.”

Over the last few years, our firm has accelerated our expansion across Florida, adding attorneys to key practice areas and industry teams.

These additions strengthen our overall Southeast regional team and allows us to continue to serve our clients as “One Firm.”
ICE

Creede was released on March 14, 2017, following an interview with ICE officials.

The March 2017 incident was not Creede’s first encounter with ICE. Williams’ order recounts that when he first arrived in the U.S. from Honduras in 2015, he was apprehended by ICE and had removal proceedings initiated against him. Said proceedings were terminated after an immigration judge granted a motion filed by the Department of Homeland Security noted that Creede was a U.S. citizen. The judge added, “It is not clear from the amended complaint or the Parties’ briefing why removal proceedings were initiated against a U.S. citizen.”

Regarding Creede’s most recent brush with ICE, Williams wrote that the plaintiff’s complaint “plausibly alleged that his Fourth Amendment rights were violated when the county arrested him pursuant to a detainer, because the county was not authorized under either state or federal law to effectuate an arrest without a warrant or probable cause that he had committed a crime.”

The ACLU of Florida — who filed suit on Creede’s behalf, alongside the University of Miami School of Law’s Immigration Clinic and Miami-based Kurzban Kurzban Weinger Tetzli & Pratt — said in a statement that county jail officials’ failure to release the plaintiff after he posted bond “constitutes a re-arrest.”

“Miami-Dade County’s policy of blindly agreeing to all ICE detainer requests is unconstitutional,” said ACLU of Florida staff attorney Amien Kacou in statement by the organization. “When local law enforcement fulfills warrantless ICE detainer requests, they violate the trust of the communities they are supposed to protect. The county should not be allowed to escape legal responsibility for turning its back on its community and supercharging the Trump administration’s reckless anti-immigrant machine.”

Zach Schlein is a writer based in Miami. Originally from Montville, New Jersey, he holds a B.A. in political science from the University of Florida and is the litigation reporter for Daily Business Review. He can be reached at his email address, zschein@alm.com.

U.S. District Judge Kathleen Williams ruled Miami-Dade law enforcement officials might have violated Garland Creede’s Fourth Amendment rights by detaining him after he posted bond.

FROM PAGE A1

CRUZ

“Cruz can be seen rushing at [officer] Beltran and striking Beltran with his left fist,” the affidavit said. Citing video surveillance footage, the report says Cruz toppled the guard and hit him in the head repeatedly while pinning him to the ground.

Before he was subdued, Cruz reportedly gained control of the officer’s stun gun, referred to in the filing as a “conductive electronic weapon.” Once the officer secured his weapon, he handed a return blow against Cruz, according to the report.

After being struck, Cruz fled to seats in the day room area of the jail and was subsequently apprehended.

Video of Cruz’s assault is excused by the Circuit Judge Elizabeth Scherer.

According to the arrest affidavit documenting the Tuesday night incident, Nikolas Cruz has been charged with assault and battery on an officer, as well as using a self-defense weapon or device against a law enforcement officer.

is being presided over by Broward Circuit Judge Elizabeth Scherer.

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According to the arrest affidavit documenting the Tuesday night incident, Nikolas Cruz has been charged with assault and battery on an officer, as well as using a self-defense weapon or device against a law enforcement officer.

For me, it was a natural progression. After being involved in expansion at Morgan & Morgan, it was time for me to expand into my own firm,” he said. “It’s new and interesting to start your own culture.”

Francis is based in Orlando, where he will handle medical malpractice and personal injury cases. Osborne will head up the firm’s medical devices practice from his office in Boca Raton.

Dylan Jackson writes about the South Florida legal community and is a graduate of the University of Missouri. He can be reached at djackson@alm.com or (305) 347-6677. On Twitter @DylanJackson
Colombia Opens Camp for Venezuela Migrants as Exodus Swells

by Christine Armario

Colombian authorities moved homeless Venezuelan migrants to a soccer field filled with yellow tents and cots, as the number of migrants fleeing their nation’s economic and humanitarian calamity has risen.

The first migrant camp for Venezuelans in Colombia’s capital sparked a protest from residents who said they feared their new neighbors would bring crime and disease, the latest hint of escalating tensions throughout the region over the spillover of Venezuela’s crisis.

“They want to ruin our communities!” a man cried out from his balcony overlooking the field of tents, later switching to English and yelling, “Welcome to the jungle!”

Colombian officials had been reluctant to set up refugee-style camps, even while similar sites have been created at Ecuador’s border with Peru and in Brazil. The new camp is modeled after a temporary refugee settlement for Syrian arrivals in France. Authorities fear camps could become permanent fixtures and hinder Venezuelans from integrating into society. But with over 1 million Venezuelans now living in Colombia, officials said they had no choice but to offer tents to destitute migrants.

“There’s nothing else left to do,” said Cristina Velez, Bogota’s secretary for social integration.

The migrants taken to the camp had been living in a park outside a bus station in conditions considered a potential public health risk. Families with young children were living cramped together along side railroad tracks and cooking food over makeshift fires.

Many had reached Bogota after long walks by foot and didn’t have enough money to rent a room.

Velez said Colombian officials talked with their counterparts in Paris over Skype to determine how to create a temporary camp, settling on a model that would keep families together while dividing up single men and women into separate tents. Migrants will be allowed to stay at the camp for up to three months and will be given information on accessing education and health care.

The initial capacity for the camp will be 500 people, though Velez said officials will evaluate whether a more permanent fixture is needed.

“We are going step by step because everything has changed very quickly,” she said.

The current exodus from Venezuela began in mid-2015 and has climbed steadily as hyperinflation, food and medicine shortages, and high crime. According to the United Nations, a total of 2.3 million Venezuelans have fled in the last three years alone.

Colombia has received more migrants than any other nation at a time when it is already tackling a litany of domestic issues, including surging coca production and a fragile peace process with leftist rebels.

The arrival of so many Venezuelans has sparked xenophobic attacks throughout the region. Last month, a group of Venezuelan authorities who had promised safe water, food and jobs.

Ivonne Jaimes, 27, cried as she sat on a cot with her 1-year-old son wondering when she would be able to bathe him. She feared they would end up stealing her customers.

Venezuelans arriving at the camp said they were jolted by the protest.

“I feel less safe because of what we’re seeing outside,” one man said. “They don’t want us here.”

As they completed a registration process and made their way toward the tents, many said they felt deceived by authorities who had promised showers and food.

Colombian officials chose a field prone to flooding and expressed worry about sanitary conditions for several hundred migrants sharing 10 portable toilets. They said officials should do more to make sure migrants have access to safe water, food and jobs.

“They don’t want us here,” said Esperanza Contreras, 60, who sells grilled corn and said she feared Venezuelans willing to work for less would steal her customers.

Still others complained that Colombian authorities had chosen a field far from the bus station, throwing them advance notice while others worried Venezuelans would take their jobs.

“I thought we would be left with nothing,” said Giovanni Sanchez, 35, who shouted into a microphone outside the camp.

Venezuelans arriving at the camp said they were jolted by the protest.

“I feel trapped here,” she said.

Christine Armario reports for the Associated Press.
Justice Elena Kagan said it’s “just too soon” to tell how the U.S. Supreme Court will function without a centrist such as Justice Sandra Day O’Connor or the eclectic, but often decisive views of Justice Anthony Kennedy.

“It’s just too soon to tell how we will function without somebody who is naturally in one of those modes,” said Kagan during a conversation with Canada Supreme Court Justice Rosalie Abella at the University of Toronto Faculty of Law. “It could be somebody will become such a justice, or it could be that they won’t.”

Just the absence of a centrist justice, Kagan added, can “affect institutional dynamics in ways that are hard to predict.” American court watchers would say this is an interesting time to think about our institution because for the first time in quite some time not all of the attention will be on one person.

Kagan answered a range of questions from Abella and law students during the hour-long conversation, but most of the questions focused on the divisive Senate confirmation of Justice Brett Kavanaugh and its treatment of women would be affected by having two sitting justices with claims of sexual misconduct against them, a reference to Kavanaugh as well as Justice Clarence Thomas, who was confirmed to the bench despite allegations that he sexually harassed a former colleague, Anita Hill.

Kagan declined to answer the student’s question, saying only: “I’m part of this institution. I care about it a lot. I care about my colleagues a lot.”

In response to Abella’s questions, Kagan said the Senate confirmation process, in the abstract, “seems good to me from the perspective of transparency of government and people taking their constitutional roles seriously.” But in reality, she added, “it’s a little bit hard to watch any of these hearings and feel they accomplish much.” Kagan said it was difficult to know how the Senate could ever get back to the time when high court nominees attracted considerable bipartisan support.

The justice said politics does not enter into the court’s everyday job and that the justices discuss cases in the way students do in their law classes.

“‘We talk about how to interpret the law, history, precedent — all the things when you’re facing a hard legal issue. These bigger concerns about institutional legitimacy, the way in which the court could do something that appears politicized or not — that’s a very small, tiny part of what we do. But nobody can live in this world and not be aware of some broader context.’

After Justice Antonin Scalia’s death in 2016, all of the justices were committed to finding as much consensus as possible to avoid 4-4 splits, Kagan said Monday. “When we went around the table and found we were divided, the chief would say, ‘Let’s talk about it some more.’ And think about it more and figure it out. We found ways to reframe questions and break out smaller questions.”

Especially in a divided time, she added, “there will be a very clear question for the court in trying to find some consensus. ‘It’s harder to do that when you are nine people; when you go around the table and we’re 5-4, it’s hard to keep talking.’”

Abella said she was concerned about the tone of some of the justices’ dissent because it has an impact on other courts. Kagan said such a stance will call the justice drafting the opinion and ask that a word or sentence be taken out, but that is rare. “We have a pretty high bar,” she added. “Probably our bar is how people consider out-of-bounds.”

As for what she would like to be her legacy, Kagan, now in her ninth year as a justice, said: “I tell everyone that ques- tion for this job. I don’t want to think that way. I think I want to do it case-by-case, sitting-by-sitting, year-by-year. You have to raise these issues in trial and proceedings, but that would deprive me of the ability to take it as a case at a time. I’ll let the legacy stuff take care of itself.”

Assistant U.S. Attorney Adam Fels of the Southern District of Florida also said that prosecutors will present evidence that Guzmán, who he said was fond of using a “diamond-encrusted handcuff and a gold-plated AK-47, personally carried out a murder and will show jurors a video of Guzmán violently interrogating a witness.”

“Money, drugs, murder. A vast global narcotics trafficking organization,” Fels said. “This is what this case is about. This is what the evidence in the case will prove.”

Fels also noted that Guzmán is known for making breathtaking escapes from prison, such as his 2015 escape from a Mexican prison via a mile-long tunnel.

Guzmán, who appeared in court wearing a dark suit with a blue-and-gray plaid tie, faces a maximum sentence of life in prison, and the government seeks $14 billion in forfeiture.

Defense attorney for alleged drug kingpin ‘El Chapo’ Victim of Conspiracy

by Marcia Coyle

Defense attorneys for alleged drug kingpin and prison escape artist Joaquín “El Chapo” Guzmán, better known as El Chapo, and his defense lawyers are set to open their case Monday. The lawyers will present evidence that Guzmán, who is at large in Mexico, and who is at large in Mexico, and who is at large in Mexico, used hit men to murder rival drug lords and traffickers within their own organization who they suspected of cooperating with the government.

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Defense Denney covers litigation and other news from the New York federal and state courts. Contact him at adenney@alm.com. On Twitter: @MarciaCoyle.
Risky Business: What's Worrying Execs in Different Regions of the World?

by Phillip Bantz

Ever wonder what business executives in Asia, Europe, Latin America or anywhere else in the world are concerned about when it comes to business risks? A new study based on the responses of more than 12,000 decision-makers for private companies operating in 130 economies across the globe shows that execs in different locales have some similar worries. The threat level that they attach to certain business hazards, however, varies by location.

The World Economic Forum's 2018 “Regional Risks for Doing Business” report, concludes that business leaders in North America, Europe, East Asia and the Pacific are most preoccupied with the threat of cyberattacks. In last year's survey, cyberattacks ranked eighth overall as a business risk for execs worldwide but this year, cyber-attacks climbed to fifth place.

“Increasingly, business executives have gotten the message,” Collins said. “I think more and more companies are taking this issue very seriously.”

While cyber-intrusions are at the forefront of the minds of execs in regions with some of the world’s most advanced economies, the top concern globally was unemployment or underemployment, which speaks to “fairly fundamental economic problems,” according to Collins.

The risk of “failure of national government” ranked as the second-highest concern among all respondents and was the top business risk for execs in South Asia, Latin America and the Caribbean. This was the second year in a row that Latin American executives said they were concerned more about the state of their government than anything else.

That “unemployment and governance failures top the list of global business risks should ring alarm bells about the strains on our basic political and economic systems,” the study states.

Another potential warning sign closer to home is that the possibility of a fiscal crisis was the fourth-highest business risk for U.S. execs. Last year, fiscal crises didn’t rank in the top 10 risks for U.S.-based business execs. The study cites high federal deficits and uncertainty about the ramifications of the new tax overhaul as potential factors.

“Despite the booming economy,” Collins said, “it’s clear that there’s some nervousness.”

Legal Departments Hiring Smaller, Cheaper Firms, Survey Says

by Phillip Bantz

When legal departments are looking to hire outside law firms, they’re not looking for bigger and bigger isn’t always better, according to a new survey that shows roughly a third of chief legal officers are shifting outside legal work to smaller firms with lower rates.

This year, 31 percent of CLOs reported that they’ve moved outside work to firms with lower billing rates while also noting that they’re “successfully using smaller law firms that offer quality work and service at considerable reductions in cost,” according to Altman Weil Inc.’s 2018 Chief Legal Officer Survey. That finding is similar to last year’s study, which showed that 33 percent of CLOs had shifted outside work to lower-priced firms.

“An overall sense is a lot of firms [legal departments] are feeling that they can’t hammer down rates on the big firms. And they don’t like contract lawyers, and they’re not going to alternate service providers. So what do they do? Shift to lower-cost firms,” said Rees Morrison, a principal of Altman Weil who co-authored the study.

The management consulting services firm based its 19th annual survey results on responses from 279 law departments that are primarily in the U.S. and the segment of sophisticated law firms, the segment of law firms to outside vendors that aren’t doing their own legal work to smaller firms with lower rates.

Other findings:

• More than 60 percent of CLOs said they’d turned to technology, primarily portal software and e-billing, in an effort to improve their law department’s efficiency in delivering legal services. Meanwhile, about 44 percent reported that they were relying more on paralegals and other paraprofessionals.
• Law firms might want to consider providing their legal department clients with data analytics on outside counsel spending. When asked if they were getting useful data on spending from their go-to outside firms, more than 72 percent of CLOs said they were not.

“Ask Altman Weil”

Altman Weil provides management consulting services exclusively to legal organizations. Our clients include law firms, legal departments, governmental legal offices and legal vendors that are headquartered across the nation, U.K. and abroad.

We offer a broad range of consulting services backed by forty years of experience in the industry.

Consulting Services

• Strategy
• Law Department Cost Control
• Outside Counsel Management
• Litigation and Technology Consulting

Sixty-two percent of law departments said they’d successfully negotiated for reduced fees with the median discount being about 10 percent off regular hourly rates, according to Altman Weil’s 2018 Chief Legal Officer Survey.

“This degree of growth — in which four or five times as many departments plan increases over decreases — is part of a long-term trend the survey has tracked since 2010,” the survey states.

As legal departments expand, so does their budgets. More than half of the law departments in the survey reported spending increases from 2017 to 2018, while only 29 percent said they’d tightened the purse strings and spent less during the same time.

And for the first time since 2011, the survey showed that, despite the push for lower rates and the shift to smaller firms, more law departments had spent more on outside counsel over the past year than those that had cut back: 42 percent compared with 32 percent, respectively.

Looking ahead, more than 40 percent of the CLOs expected that they’d spend more on outside counsel in 2019, while only 29 percent thought they’d spend less.

Aengus Collins, the Geneva-based head of global risks and the geopolitical agenda for the World Economic Forum, noted that Merck, FedEx and The Maersk Group each reported losses of around $300 million in the third quarter of 2017 alone due to cyberattacks.
SEC Files First Action Against Unregistered Cryptocurrency Exchange

by Dan Clark

The U.S. Securities and Exchange Commission announced that it has filed a cease and desist order against the sole owner and operator of EtherDelta, an unregistered online trading platform, marking the first time the commission went after such a platform based on findings that it operated as an unregistered securities exchange.

The SEC claimed in an announcement released on Nov. 8 that EtherDelta and its founder, Zachary Coburn, violated Section 5 of the Exchange Act, which makes it illegal for any broker, dealer or exchange directly or indirectly to “effect any transaction in a security or to directly or indirectly to “effect any transaction in a security or to effect any transaction in a security or to provide any service to effect any transaction in a security” or to provide any service to effect any transaction in a security.

EtherDelta had both the user interface and underlying functionality of an online national securities exchange under Section Six of the Exchange Act. “EtherDelta had both the user interface and underlying functionality of an online national securities exchange, and was required to register with the SEC or qualify for an exemption,” Stephanie Avakian, co-director of the SEC’s Enforcement Division, said in a news release announcing the order.

Coburn, without admitting or denying the findings, consented to the order and agreed to pay $300,000 in disgorgement and $13,000 in prejudgment interest and a civil penalty of $75,000.

Coburn’s attorney, Greg Lisa, a partner at Hogan Lovells, said in an emailed statement. “We've been advising our clients, if they're offering a token, to look at exchanges with ATS licenses,” she said.

She explained that many companies that offered tokens or some kind of cryptocurrency had been using unregistered exchanges because there was not another option.

The SEC said in the news release that it previously has brought enforcement actions relating to unregistered broker-dealers and unregistered ICOs, including some of the tokens traded on EtherDelta.

According to the news release, the SEC is continuing its investigation, which is being conducted by Daphna Waxman of the division’s cyber unit and Alison Levine and Jorge Tenreiro of the New York Regional Office. The case is supervised by Cyber Unit Chief Robert Cohen.

Dan Clark covers cybersecurity, legal operations and intellectual property for Corporate Counsel, an ALM affiliate of the Daily Business Review. Contact him at dclark@alm.com. On Twitter: @Danclarkal."
These reports are based on public records filed with the clerks of courts. Building area is cited in gross square footage, the total area of a property as computed for assessment purposes by the county appraiser.

**DEAL OF THE DAY**

**Boca Raton Retail Building Trades for $2.7 Million**

**Address:** 10055 Yamato Road, Boca Raton

**Property type:** This is an 11,804-square-foot building with a designation for a retail use, according to the Palm Beach County property appraiser’s office. It was constructed in 1997 on 1.3 acres.

**Price:** $2,725,000

**Seller:** Kimberly Estates II LLC

**Buyer:** Nexgen Legacy Group LLC

**Past sale:** $4,500,000 in January 2006

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**REITs, Other Investors Scoop Up Net Lease Assets**

by Erika Morphy

For the most part and for various reasons REITs have been net sellers this year. An exception has been net lease REITs. Companies such as Realty Income, Spirit Realty, Store Capital and W.P. Carey all reported more acquisitions than dispositions for the third quarter and in many cases for the year to date. The one exception has been VEREIT, which sold more than it bought in the past three months.

Furthermore there are signs that other investors, such as pension funds and private equity are gravitating to these income-producing investments.

**ACQUISITION ACTIVITY**

During the 2018 third quarter, W.P. Carey made four acquisitions for $259.7 million. It disposed of four properties for a total of $20.9 million. W.P. Carey CEO Jason Fox noted in a prepared statement that market conditions are competitive. But “through a combination of single-asset and portfolio acquisitions, as well as discretionary investments with existing tenants, we remain on track with our expectations for full-year investment volume,” he said.

Store Capital originated $510.6 million of gross investments representing 129 property locations during the third quarter of 2018, adding nine net new customers. It sold 7 properties during the same time period.

Realty Income invested approximately $609 million in property acquisitions, bringing the REIT to nearly $1.5 billion in acquisitions completed as it entered the fourth quarter. It sold 20 properties for $35.5 million during the quarter, with a gain on sales of $7.8 million.

Spirit added 13 properties to its portfolio this past quarter, investing $223.9 million. The company disposed of one vacant property for $35.5 million during the quarter, with a gain on sales of $7.8 million.

VEREIT acquired 23 properties for approximately $98.6 million and disposed of 35 properties for an aggregate sales price of $181.1 million.

**SERS UPS ITS NET LEASE MANDATE**

At the same time competition is heating up from other investors. IPE told IPE Real Assets that it had made a $300 million commitment to Oak Street Real Estate Capital Net Lease Property Fund — one of the largest commitments ever made by a U.S. public pension fund to a net-lease real estate strategy, the publication said, citing industry sources.

**RISEING ALLOCATION**

Not to be ignored are private buyers, which are stepping into the net lease space, according to JLL’s Investor. It reports that private capital captured a record 37.9 percent of the net-lease market in the first half of 2018, up by 9.4 percentage points since 2015. In 2017, private investors accounted for 36.4 percent of all net lease acquisition volume.

“Compared to lower risk-reward yield investments in bond markets, private investors are finding stable, long-term income with net-leased real estate investments in strong locations with good credit tenants in place,” said Eric Soffoletto of JLL Capital Markets.

Erika Morphy reports for GlobeSt.com.
Bull Cases in Trouble Everywhere as Oil Adds to Stock Stress

by Luke Kawa, Vildana Hajric and Elena Popina

Fund managers broadsided by the tumble in megacap tech stocks have a new reason to stress out: oil's epic losing streak.

West Texas Intermediate futures have fallen a record 12 sessions, including Tuesday’s 7 percent tumble, leaving them off nearly 30 percent from early October to hit $55.69 a barrel at Tuesday’s close. Energy stocks were the biggest drag on the S&P 500 Index on Tuesday as the benchmark gauge reversed a gain of more than 1 percent to finish in the red.

Just as is the case for risk assets broadly, fear is triumphing over seemingly firm economic fundamentals in crude. In the already tattered equity market, memories of 2015 and 2016 are bubbling up as analysts debate whether the plunge is an isolated reaction to rising supplies or something more ominous.

“As is often the case, the speed of the move is what creates problems for market participants, which aren’t huge,” Marc Pinto, portfolio manager at Janus Capital, said on Bloomberg TV.

But it’s a skittish market and we’ve seen a lot of other especially cyclical sectors, where people have taken a little bit of bad news and gone a long way with it.”

It’s tough to blame stock traders for feeling queasy about the signals sent by the cratering commodity. Even though the magnitude of the drop pales in comparison to oil’s downdraft from mid-2014 to early 2016, it amplifies concerns about the future for U.S. earnings growth.

After all, oil’s last plunge precipitated a profit recession for the S&P 500 Index,ings growth.

Comparing to oil’s downdraft from mid-2014, the S&P 500 Index fell over 25 percent through September below it. Tech stocks are in a full-blown correction, with the Nasdaq 100 off almost 11 percent since August.

Though energy stocks have come under pressure recently, analysts haven’t been quick to factor in how the price drop will affect financial performance next year. Estimates for 2019 earnings growth are higher for energy companies than the S&P 500 as a whole, a reversal of what the sell side had anticipated heading into 2016.

While oil’s travails may undercut the bullish view of the stock market, bears expect a repeat of the 2015-16 experience may end up similarly disappointing. Energy’s ability to directly hurt U.S. equities — and the economy — is substantially lower than it was in mid-2014 at the height of the shale boom.

Energy’s share of the S&P 500 by market capitalization has already tumbled since mid-2014 to just 5.5 percent. Still, energy’s drop is still good news for U.S. consumers while the decline is negative for mining investment, said Neil Dutta, head of U.S. economics at Renaissance Macro Research. “The good news is that mining investment has been cut almost in half relative to GDP since 2014.”

Vanguard Group Tumbles in Customer Satisfaction Amid Digital Snafus

by Suzanne Woolley

Vanguard Group, famed for its low-cost investment products, just broke out of the pack in a consumer satisfaction survey. But not in a good way.

The mutual fund firm with more than $5.3 trillion in assets under management suffered the largest annual point decline among internet investment providers in an American Customer Satisfaction Index report. The Mahwah, Pennsylvania-based company’s score dropped to 79 out of 100, down three points from last year and knocking it out of first place. The new leader is Edward Jones & Co., which scored an 80.

Vanguard, which doesn’t have brick-and-mortar branches, has had some high-profile glitches in the past year. On Oct. 10 — after the survey was taken — when the S&P 500 Index had its worst decline in nine months, some customers were unable to access Vanguard’s website.

The fund giant’s score of 79 matches its score from last year and knocking it out of first place. The new leader is Edward Jones & Co., which scored an 80.

Vanguard’s website had been down for the last two weeks, though the company said it had made progress. According to Popina report for Bloomberg News.

Vanguard spokesman said the firm is “investing considerably in improving our customer service and experience.” Along with enhancements to online security and its mobile app over the years, “in early November we completed a major systems upgrade to improve the resilience and performance of our websites,” she said.

The ACSI report, which focused on the financial and insurance sectors, also showed that banks are closing in on credit unions after trailing in customer satisfaction for a decade. The two industries had the same average score of 81, with credit union scores dropping by 1.2 percent from a year earlier. As bank digital offerings evolve and mobile banking takes off, the personal touch credit unions historically provided is not as important, VanAmbur said.

Wells Fargo & Co., which has been grappling with a string of consumer scandals, was the lowest-ranked national bank with a score of 74, while JPMorgan Chase & Co. was first with an 80, according to the report.


Suzanne Woolley reports for Bloomberg News.
**Nigerian ISP’s Configuration Error Disrupted Google Services**

**by Frank Bajak**

A Nigerian internet service provider said that a configuration error it made during a software upgrade caused a disruption of key Google services, routing traffic to China and Russia.

Even with MainOne’s explanation, there was speculation that Monday’s 74-minute data hijacking might not have been an accident. Google’s search, cloud hosting and corporate-focused G-Suite collaborative tools were among services disrupted.

“The everyone is pretty confident that nothing untoward took place,” MainOne spokesman Tayo Ashiru said.

But Jake Williams, president of RenderInfoSec and a former U.S. government hacker, said a skeptic should not rule out meddling by a state-saint with something to gain. The level of corruption in a country like Nigeria is well known, he said.

The type of traffic misdirection involved can knock essential services offline and facilitate espionage and financial theft. It can also be used to block access to information by sending data requests into internet black holes. Experts say China, in particular, has systematically hijacked and diverted U.S. internet traffic.

But the problem can also result from human error. It’s very difficult to tell the difference, said Williams.

Google said it had no reason to believe the traffic hijacking was malicious.

Ashiru said engineers at MainOne, a major west African ISP, mistakenly forwarded to China Telecom addresses for Google services that were supposed to be local. The Chinese company, in turn, sent along the bad data to Russia’s Internet organisations.

Ashiru said MainOne did not yet understand why China Telecom did that, as the state-run company normally allows Google traffic on its network.

The traffic diversion into China created a detour with a dead end, preventing users from accessing the affected Google services, said Alex Henthorn-Iwane, an executive at the network-intelligence company ThousandEyes.

He said Monday’s incident offered yet another lesson in the internet’s susceptibility to “unpredictable and destabilizing events. If this could happen to a company with the scale and resources available that Google has, it could happen to anyone.”

The diversion, known as border gateway protocol route hijacking, is built into the internet, which was designed for collaboration by trusted parties — not competition by hostile nation-states. Experts say it is fixable but would require investments in encrypted routers that the industry has resisted.

ThousandEyes said the diversion at minimum made Google’s search and business collaboration tools difficult or impossible to reach and “put valuable Google traffic in the hands of ISPs in countries with a long history of Internet surveillance.”

Most network traffic to Google services — 94 percent as of Oct. 27 — is encrypted, which shields it from prying eyes even if diverted. But work was interrupted on services such as G-Suite, which Google CEO Sundar Pichai in February said had more than 4 million businesses as customers. G-Suite and Google Cloud combined generate about $4 billion in revenue each year.

Google did not quantify the disruption other than to say in a statement that “access to some Google services was impacted.”

Indeed, the phenomenon has occurred before. Google was briefly afflicted in 2015 when an Indian provider stumbled. In perhaps the best-known case, Pakistan Telecom inadvertently hijacked YouTube’s global traffic in 2008 for a few hours when it was trying to enforce a domestic ban. It sent all YouTube traffic into a virtual ditch in Pakistan.

In two recent cases, such rerouting has affected financial sites. In April 2017, one affected MasterCard and Visa among other sites. This past April, another hijacking enabled cryptocurrency theft.

Frank Bajak reports for the Associated Press.

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**Greenspan Says US May Be Seeing First Signs of Inflation**

**by Sarah Foster**

Former Federal Reserve Chairman Alan Greenspan said a rising U.S. debt burden could derail the current expansion and knock the nation’s labor market could lift inflation.

“I’m beginning to see the first signs of it,” Greenspan said on an interview on “The David Rubenstein Show: Peer-to-Peer Conversations” on Bloomberg Television. “We’re seeing it basically in the tightening of the labor markets first, which, as you know, have gotten very tight now. We’re beginning to see, in terms of unemployment, and clearly there’s no productivity behind it.”

Inflation measured by the Fed’s preferred consumer prices known as the personal consumption expenditure index was 2 percent — about the central bank’s target — through the last 12 months through September after remaining basically at that threshold since 2012.

A separate gauge, the consumer price index, rose 2.5 percent in October from the year before, according to a Labor Department report Wednesday. Unemployment dropped to 3.7 percent, the lowest level since 1969, and average hourly earnings are creeping up.

Unemployment is a reliable productivity growth metric “you’re getting into a system now which has no outcome that’s in equilibrium other than no productivity growth.”

The former Fed chief, who retired from the central bank in 2006, also warned that rising U.S. debt levels could undermine the economic expansion.

“The tax cut actually did get a buoyancy, and we’re still feeling some of that, but it’s nowhere near enough to offset the actual deficit,” Greenspan said. “You can’t have a tax cut without finding the revenues elsewhere, or you run into problems.”

Tax cuts and federal spending signed by President Donald Trump have bolstered business confidence and lift U.S. growth to 3 percent in the year through the third quarter. But the government is predicted to a six-year high of $797 billion during Trump’s first full fiscal year, raising concern the country’s debt load of more than $21.7 trillion will grow out of control. The government on Tuesday reported a $105.5 billion budget gap for October, the first month of the new fiscal year, an increase of about 60 percent from a year earlier.

Greenspan said curbing spending on Social Security, Medicaid and Medicare were key to putting the nation’s finances on a sustainable footing.

Sarah Foster reports for Bloomberg News.

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**Satoshi vs. Bitcoin Jesus: Bitcoin Cash Battle Turns Personal**

**by Olga Kharif**

A group headed by the controversial Australia is expected to take control today of the world’s fourth-largest cryptocurrency following a software upgrade. A rival faction that disagrees on how to best expand has been trying to persuade the community of computer operators running the network to accept their version. About 70 percent of the so-called miners that process the transactions that keep the network afloat are signaling they support the version backed by Wright’s allies, according to crypto data tracker Coin Dance.

Craig Wright, the self-proclaimed inventor of bitcoin under the pseudonym Satoshi Nakamoto, is poised to win a fight that will likely lead to the creation of another version of Bitcoin Cash, the rival group is heading. Satoshi Nakamoto, is poised to win a fight that will likely lead to the creation of another version of Bitcoin Cash, the rival group is heading.

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Pilots Says Boeing Didn’t Disclose Jet’s New Control Feature

by David Koenig

Boeing didn’t tell airline pilots about features of a new flight-control system in its 737 MAX that reportedly is a focus of the investigation into last month’s deadly crash in Indonesia, according to pilots who fly the jet in the U.S.

Pilots say they weren’t trained in new features of an anti-stall system in the aircraft that differ from previous models of the popular 737.

The automated system is designed to help pilots avoid raising the plane’s nose too high, which can cause the plane to stall, or lose the aerodynamic lift needed to keep flying. The system automatically pushes the nose of the plane down.

But if that nose-down command is triggered by faulty sensor readings — as suspected in the Lion Air crash — pilots can struggle to control the plane, which can go into a dive and perhaps crash, according to a Boeing bulletin and safety regulators.

The bulletin included new details on how to stop a runaway series of events from leading to a crash, pilots say:

“It is something we did not have before in any of our training. It wasn’t in our books. American didn’t have it,” said Dennis Tajer, a 737 pilot and spokesman for the pilots union at American Airlines. “Now I have to wonder what else is there?”

John Weaks, a 737 captain and president of the pilots union at Southwest, said he couldn’t recall a similar omission in a Boeing operating manual.

“I was not pleased. How could something like this happen? We want to be given the information to keep our pilots, our passengers and our families safe,” he said.

Weaks said he is satisfied that “we have been given, finally, the correct information.”

The MAX is the newest version of the twin-engine Boeing 737. More than 200 have been delivered to airlines worldwide, including American, Southwest and United.

Boeing Chairman and CEO Dennis Muilenburg said Tuesday that the Chicago-based company remains confident the MAX is a safe airplane. He said Boeing did not withhold operating details from airlines and flight crews.

“We ensure that we provide all of the information that is needed to safely fly our airplanes,” Muilenburg told Fox Business Network. He said Boeing bulletin to airlines and pilots “point them back to existing flight procedures” to handle the kind of sensor problem suspected in last month’s crash.

A Southwest spokeswoman said the new automated maneuvering system was not included in the operating manual for MAX models. An American spokesman said the airline was unaware of some new automated functions in the MAX but hasn’t experienced nose-down intervention errors. A United spokesman said Boeing and the FAA do not believe additional pilot training is needed.

The Federal Aviation Administration issued an emergency directive last week to airlines, telling them to update cockpit manuals to include instructions for how pilots can adjust flight controls under certain conditions.

“The FAA will take further action if findings from the accident investigation warrant,” the agency said in a statement Tuesday.

On Oct. 29, Lion Air Flight 610 plunged into the Java Sea shortly after takeoff from Jakarta. All 189 people on board were killed.

John Cox, a former 737 pilot and now a safety consultant to aviation companies, said since the crash “have been exactly correct. They have increased pilot awareness, they have mandated training of the proper procedure to disable [the automatic nose-down action], which stops the problem.”

Indonesian investigators say that the Lion Air Boeing 737 MAX 8 experienced malfunctions with sensors that indicate the angle of the nose on four recent flights, including the fatal one.

The Wall Street Journal reported that U.S. and Indonesian investigators are increasingly focusing on the way that the plane’s automated control systems interact — and they are also questioning whether the FAA and Boeing adequately analyzed potential hazards if the systems malfunctioned. In turn, said faulty data to the plane’s computers, according to the newspaper.

by Anne D’Innocenzo

Macy’s Charges Into the Holiday Shopping Season Like a Boss

Macy’s is heading into the crucial holiday season firing on all cylinders, logging its fourth consecutive quarter of sales growth at existing locations and getting strong reactions from customers engaged.

The company also lifted its expectations from airlines and the FAA for MAX models. An American spokesman said the airline was unaware of some new automated functions in the MAX but hasn’t experienced nose-down intervention errors. A United spokesman said Boeing and the FAA do not believe additional pilot training is needed.

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by Anne D’Innocenzo reports for the Associated Press.

Neil Saunders, managing director of GlobalData Retail, said consumer tracking data supports the story of an ongoing recovery.

At this time last year, 59 percent of Macy’s customers rated their shopping experience as good or very good, Saunders said, based on a survey. This year that figure has risen to 67 percent, Saunders said. He wrote that his data also show that for the first time in over eight years, the number of people saying they will visit Macy’s to do holiday shopping has risen.

“Along with the good sales numbers, these pieces of evidence underline that Macy’s is succeeding in creating a stronger appeal,” he wrote.

Macy’s Inc. reported third-quarter profits of $62 million, or 20 cents per share. Per-share earnings adjusted for one-time gains and losses were 27 cents, or 13 cents better than industry analyst expected, according to a survey by Zacks Investment Research.

The Cincinnati chain’s revenue of $6.4 billion also beat expectations.

Sales at department stores opened at least a year rose 3.3 percent, its fourth straight quarter of gains after a three-year slump. The figure included sales from its licensed department stores.

Macy’s now expects annual profits to increase from $3.95 and $4.15 per share, to between $4.10 and $4.30.

Macy’s kicked off the earnings season for department stores. J.C. Penney and Nordstrom report quarterly results Thursday, while Kohl’s posts early next week.

Anne D’Innocenzo reports for the Associated Press.
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Neomi Rao, Trump's Deregulatory Leader, Gets DC Circuit Nod to Replace Kavanaugh

by Ellis Kim and C. Ryan Barber

White House regulatory czar Neomi Rao will be nominated to fill the vacancy left by Justice Brett Kavanaugh on the U.S. Court of Appeals for the D.C. Circuit, President Donald Trump said Tuesday.

Rao, confirmed in 2017 to lead the Trump administration’s push to curtail agency regulations, would succeed Brett Kavanaugh on the D.C. Circuit, whose docket is teeming with administrative disputes.

In a June speech at the Heritage Foundation, she touched on the topic of Chevron deference, a judicial doctrine which permits courts to defer to regulatory action in the courts, “so I think this is really a tremendous amount of progress in a short period of time. And one of the things that has been the result of these efforts is there’s been a slowing of the imposition of costly new regulations and guidance documents, and kind of a fundamental shift away from the inertia that has favored a steady expansion of regulatory power,” Rao said on Nov. 1.

If confirmed, the Senate, Rao would appear to have a shot to secure the second of New Jersey’s three federal appeals court vacancies, she was counsel to the Senate Judiciary Committee.

At Tuesday’s hearing, Sen. Cory Booker, withheld their “blue slips” for Matey.

”If you had known, would you have advised the U.S. attorney, Mr. Christie, not to engage in this kind of settlement because the obvious quid pro quo is clear?” Hirono asked.

"My work as a United States attorney was always to follow the law faithfully, as given by this Congress. That is how I conducted myself and how I would have conducted myself in any matter," he said.

The White House announced Matey’s nomination to the U.S. Court of Appeals for the Third Circuit in April to fill the seat vacated by Julio Fuentes, who took senior status.

The committee also held hearings on four district court nominations—Jean-Paul Boulee, for the Northern District of Georgia; J. Nicholas Ranjan, for the Western District of Pennsylvania; James David Cain Jr., for the Western District of Louisiana; and Damon Ray Laney, for the Northern District of Indiana.

At Tuesday’s hearing, Sen. Patrick Leahy, D-Vermont, brought up the gridlock that plagued the city of Fort Lee, New Jersey, in 2013 as a result of lane closures on the George Washington Bridge. The city’s mayor refused to endorse Christie’s gubernatorial re-election campaign. Leahy said Matey, reported on the gridlock after the Fort Lee mayor resigned, as it was technically done after hours.

Leahy said two Christie administration officials were convicted of criminal charges in connection to the Bridgegate scandal, which he called a “character assassination” for Matey.

"I believe that was entered into prior to my joining the office," Matey said. "I reported it to the regulatory agency."

"If you had known, you would have advised the U.S. attorney, Mr. Christie, not to engage in this kind of settlement because the obvious quid pro quo is clear?" Hirono asked.

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Sen. Corey Booker, the former mayor of Newark, said he knew Matey from University Hospital, a major health care facility in that city “that had a lot of problems and scandals.”

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