

Crowell & Moring's Natalie Ludaway on the New Landscape for State AGs

The former D.C. chief deputy attorney general discusses her perspective on the growing practice and her client work on issues like price gouging during the COVID-19 pandemic.

BY TONY MAURO

For the last five years, Natalie Ludaway served as the chief deputy attorney general for the District of Columbia, taking a leading role in building the office into an agency on par with the best state attorneys general. (With admiration, Ludaway labels those who hold the roles as “the people’s lawyers.”)

It was a time when state attorneys general nationwide were flexing their muscles as never before, filling the litigation gaps left by the Trump administration’s deregulation juggernaut.

In March, Ludaway left her position in the D.C. Office of the Attorney General to join Crowell & Moring’s state attorneys general enforcement and investigations practice. It’s one of a growing number of law firms that are beefing up that practice area in response to litigious state attorneys general. She also arrived as the coronavirus outbreak was capturing the world’s attention—a crisis that is engendering its own wave of state attorney general litigation. We reached out to Ludaway for her perspective on both sides of this growing practice.

Our interview with Ludaway has been edited for space and clarity.

You said you originally planned to stay at the D.C. attorney general’s office for two years, but you stayed for five. What innovations are you most proud of?

When I arrived at the office, it was focused on being a defensive attorney general’s office. I came with the mission and purpose for the office to, of course, provide excellent counsel and excellent lawyers, but to really move more towards being an affirmative office, where the office would focus on helping the most vulnerable residents in the city.

We stood up a first-class consumer protection office. That division focused on addressing slumlord issues. You know, for several years, the office has gone after slumlords who do not provide livable housing conditions. Very proud of that work.

During your tenure there, it seems many state attorneys general have become more litigious and aggressive than before and have changed the



Natalie Ludaway, with Crowell & Moring.

legal landscape. Why has this occurred?

The federal government has pulled back from areas in consumer protection and antitrust, in the environment, and the states have stepped up.

The work needs to be done. But also the community of attorneys general, while there are certainly partisan issues, is still an area where people work collaboratively and well across party lines.

I do think that the Trump administration and its policies have left a

void, but I don't think [the litigation] is only because of the Trump administration. You look at price gouging, for example. Price gouging is an issue that every attorney general is looking at regardless of party affiliation. You look at the opioid crisis. The opioid crisis isn't based on party affiliation. It's based on people.

Why did you leave the attorney general's office and head to Crowell & Moring?

You know, I felt I did what I came to do in terms of setting up the office. I really just wanted another opportunity. I was attracted to Crowell. What makes Crowell & Moring a special place is the leadership, and I have to say as we go through this time, the leadership in the firm matters. The work that I want to do is counseling clients to give them advice. I had the opportunity to see many, many, many companies come before attorneys general and to be part of discussions and hear attorneys general's views. Combined with my 25 plus years before joining the district's AG office and those five years, I have a good set of skills to advise and represent companies. I know the office is in good hands.

Why have so many law firms have launched state attorney general practices?

I think that in order to fully advise a client, it's not just looking at federal regulations and enforcement but you've got to look at what state attorneys general are going. They are a powerful and active group. You know, they are the people's lawyers. You cannot operate

without also getting advice regarding a state attorney general. They are a group that not only works as a single unit but quickly can work in terms of a region. Just as COVID-19 doesn't have any borders, the same with attorneys general.

What kind of litigation from state attorneys general are you seeing related to the coronavirus pandemic?

The firm has a very strong multidisciplinary working group advising clients on how to navigate the business legal and operational challenges associated with the pandemic. I am part of that team and help to advise clients. Of course, companies, I believe, want to stay on the right side of the law. We are advising on issues regarding price gouging, supplier chain issues, and issues related to false advertising and refunds. There's also the issue of recurring contracts, recurring services. You can have a situation where the claims made are regarding the safety of a product. In this COVID-19 era, a company could receive a letter on why did your price go from X to Y?

And then you get to other issues, like making certain that companies are following disconnection rules, for example. Many jurisdictions have passed laws that you're not permitted to disconnect utility service or mortgages or those types of things.

In a case where there are disconnections, for example, do you defend that for a company?



Well, first you find out what the company would be doing, right? Just as when I was in the AG's office, the assumption is just because something occurred doesn't necessarily mean that it was impermissible, right? The first thing is to look at why it occurred and to explain to the office why it occurred and, if necessary, make adjustments.

The best advice I could ever give to a company is that when an AG office sends a letter or has a question, respond to and engage with the office. You want to build a relationship. That's the reason for having experienced counsel who has been in an AG office. You're not going to agree 100% of the time, but at least you get to a point where you understand what you're disagreeing on.

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