



KENTUCKY

General News



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Attorney General Conway Sues Marathon Petroleum Alleging Anti-Competitive Practices Lead to Higher Gas Prices in Kentucky



On May 12, Attorney General Conway filed a lawsuit against Marathon Petroleum. The suit, filed in U.S. District Court in the Western District of Kentucky, alleges that Marathon engages in anti-competitive practices that lead to higher gas prices for consumers across Kentucky.

“For almost two decades, Marathon has been allowed to run rampant in Kentucky,” Attorney General Conway said. “Marathon owns and operates the only refinery in Kentucky, and it maintains its wholesale monopoly by making retailers and other potential suppliers enter into contracts that are outright anti-competitive. This conducts harms everyone who buys gas in Kentucky.”

As reflected in the complaint, the Office of the Attorney General believes Marathon violated state and federal antitrust laws by abusing the monopoly created when Marathon and Ashland Oil merged in 1998. The price disparity is most pronounced in the Louisville and Covington markets, where retailers are required to sell reformulated gas (RFG) during the summer months to reduce pollution emissions and improve air quality. Gas prices in Louisville are generally 20 to 30 cents higher than the rest of the state. When Louisville is compared to St. Louis, an RFG market of similar size in the region, gas prices averaged roughly 25 cents more per gallon in Louisville than St. Louis in the summer of 2014.

Attorney General Conway first started investigating gas prices in Kentucky in 2008 after it became clear that Kentucky stations were charging more for a gallon of gasoline than retailers in surrounding states. In 2008, Attorney General Conway forwarded his investigation to the Federal Trade Commission (FTC). It declined to review the merger. In 2011, Attorney General Conway spoke with U.S. Attorney General Eric Holder and forwarded the investigation to the Department of Justice’s Oil and Gas Price Fraud Working Group. In 2014, when new commissioners were named to the FTC, Attorney General Conway once again asked for a review of the merger and its impact on Kentucky.

“I am tired of waiting for the federal government to do its job and act on this case,” Attorney General Conway said. “There is too much at stake, so we’ve taken matters into our own hands. We are standing up for Kentucky consumers and proceeding with our own antitrust case against Marathon.”

Watch on the OAG YouTube Channel: <https://www.youtube.com/watch?v=rihoDik9kEk>

Read the Complaint: http://ag.ky.gov/pdf_news/marathon-final-complaint.pdf

Read more here: <http://migration.kentucky.gov/Newsroom/ag/marathon.htm>

Life Saving Heroin Overdose Narcan Kits Distributed to St. Elizabeth Healthcare Hospitals

First Lady Jane Beshear and Attorney General Conway continued to deliver on a promise to help all Kentuckians, regardless of socio-economic and insurance obstacles, obtain life-saving Narcan kits where they are needed most. On May 26 in Northern Kentucky, First Lady Beshear and Attorney General Conway announced that heroin/opiate overdose reversal kits were being made available to people treated for overdoses at the St. Elizabeth Healthcare system. The funding is provided through the Substance Abuse Treatment Advisory Committee (SATAC).

Gov. Steve Beshear created SATAC by executive order to oversee the KY Kids Recovery grant program and distribution of \$32 million in settlement funds that Attorney General Conway secured from two pharmaceutical companies. The judge required the settlement funds be used to expand treatment in Kentucky. Attorney General Conway chairs the committee and First Lady Beshear serves on the committee. Those funds have been used to purchase approximately 2,000 naloxone rescue kits for the University of Louisville Hospital, University of Kentucky HealthCare hospitals, and the St. Elizabeth Hospital system in Northern Kentucky.



“This project will allow us to get this medicine into the hands and homes of the people who need it most – heroin users and their families,” Attorney General Conway said. “Heroin and opiate abuse is killing Kentuckians, and these kits will save lives and provide a second chance for people to seek treatment for their addictions. I appreciate the legislature following our lead by putting partisan politics aside and passing meaningful heroin legislation that stiffens penalties for large scale traffickers, increases treatment funding, provides for a Good Samaritan defense, and gets Naloxone kits into the hands of first responders and limits the civil liability of those responders.”

The hospitals in Kentucky with the highest rates of heroin overdose deaths are receiving funding for the kits. Five hundred forty five people in 2013 and 745 people in 2014 were treated for heroin overdoses at five hospitals in the St. Elizabeth Healthcare system. Heroin overdose patients will now receive a kit free of charge when they leave the hospital, so they or a loved one can prevent another overdose event and possibly save a life. The project is already up and running at the hospitals.

“There is evidence the collaborative efforts in our community are having an effect,” said Garren Colvin, interim President and CEO of St. Elizabeth Healthcare. “A report earlier this month indicated that heroin-related overdose deaths are down in Northern Kentucky. To continue to battle heroin issues in our community and throughout Kentucky, it is going to take education and collaboration at the local and state levels. No single organization or individual can solve this on their own; success will only come with great teamwork and meaningful partnerships. We are grateful for Kentucky’s contribution today.”

To learn more about SATAC and its effort to expand drug treatment across Kentucky, visit KyKidsRecovery.ky.gov.

Watch the St. Elizabeth’s Press Conference: <https://www.youtube.com/watch?v=huTw4IAg3s0>

Statewide Leaders Cross Political Aisles to Help Eastern Kentucky



On May 11, Attorney General Conway attended the Shaping our Appalachian Region (SOAR) Summit in Eastern Kentucky. This summit has grown since 2013 because of the bipartisan efforts of Gov. Steve Beshear and Rep. Hal Rogers. The SOAR program was created to establish a network of productivity and innovation to address the most pressing problems in East Kentucky. The SOAR mission is to expand job creation, enhance regional opportunity, innovation, and identity, and improve quality of life.

Several working groups have been tasked with innovation and growth for this region and are led by prominent business and community leaders. These target SOAR groups include agriculture, community and regional foods, natural resources, broadband, business incubation, business recruitment, education and retraining, health, infrastructure, leadership development and youth engagement, regional collaboration and identity, tourism and arts & heritage. This collaboration of community leaders offers a blueprint for future statewide initiatives that put people before politics. The SOAR program proves that fostering innovation and cooperation will lead to real achievement and growth. For more information on SOAR: <http://www.soar-ky.org/>

General Conway Contacts the US Department of Education to Stand up for Corinthian College Students



Attorney General Conway and 11 fellow state Attorneys General sent a letter to United States Department of Education Secretary Arne Duncan expressing concern about information the Department provided to students after Corinthian College announced its closure. The Department advised students they could transfer to other for-profit colleges; including colleges that are under investigation by multiple federal and state agencies. State Attorneys General are also submitting recommended changes to the Department of Education to identify schools that are currently under investigation or subject to judgments that may affect a student's choice of school in response to the Department's request for information.

The state Attorneys General are part of a 37-state working group, led by Attorney General Conway, which is reviewing the troubling practices of some for-profit colleges. Several states, including Kentucky, have filed lawsuits against for-profit colleges for allegedly misleading students, misreporting student loan default rates or placement rates, and questionable lending practices.

“For the Department of Education to recommend attending a school that is under investigation is troubling,” Attorney General Conway said. “These students have already been through a stressful time with the closure of a school, and the last thing they need is to end up at institutions that are more interested in getting their hands on student loan dollars than they are in educating students. When something bad happens – the students are left holding the bag with tens of thousands of dollars in debt, no degree and credits that won't transfer.”

For more information about Corinthian students' rights under the closed school discharge (forgiveness) of their student loans, please see <https://goo.gl/mNJHd6>

States participating in the letter include Kentucky, Connecticut, Hawaii, Illinois, Maine, Maryland, Massachusetts, Minnesota, Missouri, New Mexico, New York and Oregon.

To read the entire letter: <http://goo.gl/mD2azg>

Verizon and Sprint to pay \$158 Million in Mobile Cramming Settlement

Earlier this month, the Attorney General Conway along with the Attorneys General of the other 49 States and the District of Columbia, the Consumer Financial Protection Bureau, and the Federal Communications Commission, reached settlements with Sprint Corporation (Sprint) and Cellco Partnership d/b/a Verizon Wireless (Verizon), that include \$158 million in payments and resolve allegations that Sprint and Verizon placed charges for third-party services on consumers' mobile telephone bills that were not authorized by the consumers, a practice known as “mobile cramming.”

Consumers who have been “crammed” often have charges, typically \$9.99 per month, for “premium” text message subscription services (also known as PSMS subscriptions) such as horoscopes, trivia, and sports scores that the consumers have never heard of or requested. The cramming occurs when carriers place charges on consumers' mobile telephone bills or deduct them from consumers' prepaid accounts for third-party products without consumers' knowledge and/or authorization.

Sprint and Verizon are the third and fourth mobile telephone providers to enter into nation-wide settlements to resolve allegations regarding cramming. Attorney General Conway announced similar settlements with AT&T in October of 2014 (\$105 million), and T-Mobile in December of 2014 (\$90 million). All four mobile carriers announced they would cease billing customers for commercial PSMS in the fall of 2013.



“These settlements will help protect Kentucky consumers from unauthorized third-party charges on their mobile telephone bills,” said Attorney General Conway said. “I encourage anyone who was affected by mobile cramming through Sprint or Verizon to submit a claim through the consumer redress programs required by these settlements.”

Consumers may submit claims under the redress programs by visiting www.SprintRefundPSMS.com (Sprint) or www.CFPBSettlementVerizon.com (Verizon). On these websites, consumers may submit claims, find information about refund eligibility and how to obtain a refund, and can request a free account summary that details PSMS purchases on their accounts. Consumers who have questions about the redress programs may visit the program websites or call the settlement administrators at: (877) 389-8787 (Sprint) or (888) 726-7063 (Verizon).

Read more here: <http://migration.kentucky.gov/Newsroom/ag/sprintverizon.htm>

Attorney General Conway Announces Joint Nationwide Lawsuit Against Four Sham Cancer Charities

Four charities claiming to raise money in the fight against cancer have been targeted by a national lawsuit alleging corruption and misleading donation solicitations. The joint complaint alleges that the defendants Cancer Fund of America, Children's Cancer Fund of America, Cancer Support Services and The Breast Cancer Society, portrayed themselves to donors as legitimate charities with substantial nationwide programs whose primary purposes were to provide direct support to cancer patients, children with cancer, and breast cancer patients in the United States. Consumers' donations were wasted and misused, cancer victims were not helped, and the representations that defendants were legitimate charities were false. Among other things, defendants or their telemarketers often told donors that their contributions would be used to provide pain medication to children suffering from cancer, transport cancer patients to chemotherapy appointments, and/or pay for hospice care for cancer patients. These, however, were lies. The defendants did not operate programs that provided these services.



Attorney General Jack Conway together with state law enforcement partners in every other state in the nation, the District of Columbia, and the Federal Trade Commission, jointly filed a federal lawsuit against these four phony cancer charities and their operators, who allegedly scammed more than \$187 million from consumers throughout the country.

"I am joining with our state and federal colleagues in this historic cooperative effort to combat charity fraud of the worst kind," stated Attorney General Conway. "Cancer is a devastating disease that impacts millions of Americans and their families every year. Donors that are attempting to aid those with cancer must have assurances that their dollars are spent on cures and not corrupt schemes. With our actions today, we are permanently ending these deceptive solicitations claiming to assist children with cancer and breast cancer patients. These misleading solicitations targeted residents of Kentucky and every other state in the country. We are also continuing the fight against Cancer Fund of America in court by seeking to halt its deceptive acts."

Read more here: <http://migration.kentucky.gov/Newsroom/ag/cancerfund.htm>

Accredo Health Group, Inc. Agrees to Pay \$60 Million in Kickback Case

On May 28, Attorney General Jack Conway announced an agreement in principle to settle kickback claims against Accredo Health Group, Inc. (Accredo). The settlement will resolve allegations that Accredo recommended the drug Exjade to Medicaid patients in exchange for kickbacks from Novartis Pharmaceuticals Corporation (Novartis), which markets the drug. Under the settlement, Accredo has agreed to pay \$60 million to the United States and more than forty states. Kentucky's share of the settlement is almost \$400,000. Almost \$325,000 will be returned to the federal government on behalf of Kentucky claims paid and the state Medicaid program will receive \$77,150.



"Patients have a right to unbiased information from their pharmacy about their medications," said Attorney General Conway. "Drug companies like Novartis and pharmaceutical distributors like Accredo Health Group will not be permitted to violate anti-kickback laws. These laws are enforced to ensure patients are only prescribed drugs which benefit the patient."

The settlement with Accredo is the second settlement in connection with this case. In early 2014, another pharmacy, BioScrip, Inc., agreed to pay \$15 million to resolve similar claims. Kentucky received \$5,829.94 under that settlement.

Medicaid Recoveries

Attorney General Conway has investigated and prosecuted more abuse and neglect cases than any previous Kentucky Attorney General. Since Attorney General Conway took office in January 2008, his Office of Medicaid Fraud and Abuse Control has recovered more than \$300 million for state and federal-funded Medical programs. These cases range from lawsuits and settlements against pharmaceutical companies to cases against individual providers.

In 2012, Attorney General Conway's Medicaid Fraud Unit was named one of the most aggressive in the country by the nonprofit watchdog group Public Citizen. The Attorney General's tip line for reporting allegations of abuse is 1-877-228-7384.

Read more here: <http://migration.kentucky.gov/Newsroom/ag/accredo.htm>

2015 Recipients of the “Sarah Shay & Michael Donta Memorial Scholarships for Hope and Healing”

Two \$1,500 scholarships created in 2013 to help high school seniors whose lives have been impacted by prescription drug abuse will benefit two Kentucky teens attending college this fall. Sydney Fryman, a graduate of Nicholas County High School, and Lennon Reed, a graduate of Logan County High School, were selected in May to receive the “Sarah Shay and Michael Donta Memorial Scholarships for Hope and Healing.”

“Sydney and Lennon have embraced positive lifestyles, excelling in both their personal and academic lives, despite seeing firsthand the devastating consequences of prescription drug abuse,” Attorney General Conway said. “Their scholarship essays serve as vivid reminders of the heavy toll that prescription drugs are taking on families across Kentucky. I commend Sydney and Lennon on their hard work and wish them only the best as they pursue their college degrees. They are writing a new chapter for their families and helping stop the cycle of addiction.”



The scholarships are in memory of 19-year-old Sarah Shay and 24-year-old Michael Donta. Shay, of Morehead, Ky., died of a prescription drug overdose in 2006. Donta, of Ashland, Ky., lost his battle with prescription painkiller abuse in 2010. Sarah and Michael’s parents, Dr. Karen Shay and Mike Donta, now travel across Kentucky with Attorney General Conway to help educate middle and high school students about the dangers of prescription drug abuse and heroin. Through the Attorney General’s Keep Kentucky Kids Safe program, General Conway and his partners have shared this important message with approximately 40,000 students, teachers, and parents in Kentucky.

The Office of the Attorney General and the Prosecutors Advisory Council (PAC) were able to offer these scholarships thanks to the generosity of the National Association of Drug Diversion Investigators (NADDI) and private donations from Sarah’s and Michael’s families.

One “Sarah Shay Memorial Scholarship” and one “Michael Donta Memorial Scholarship” will be awarded each year to a graduating high school female and male, who meet the scholarship criteria, to put toward postsecondary education expenses. You can make a tax deductible donation by visiting: <https://goo.gl/xFKIYB>

Election Fraud Hotline Receives 16 Calls during Primary Election



Attorney General Conway’s Election Fraud Hotline received 16 calls from 11 counties between 6 a.m. and 7 p.m. (EST) during Kentucky’s primary election on May 19. Almost all of the calls were procedural in nature. There were no allegations of vote buying/selling.

“The Election Fraud Hotline is an important tool for voters to help protect the integrity of Kentucky’s elections,” Attorney General Conway said. “My office will thoroughly review each complaint for any possible election law violations. If an investigation is deemed necessary, the complaint will be referred to the appropriate agency.”

In addition to the hotline, investigators from General Conway’s Department of Criminal Investigations patrolled precincts and polling places across the Commonwealth to respond immediately to complaints. The Attorney General’s Office, which has jurisdiction to investigate and prosecute election law violations, is also a member of the Kentucky Election Integrity Task Force.

The post-election audit drawing will be held on June 3.

Guilty Pleas in Woodford and Fayette County Robberies

Attorney General Conway’s Office of Special Prosecutions helped to secure guilty pleas of 28-year-old Arion Harmon of Lexington and 29-year-old Robert Mulder of Woodford County. Harmon and Mulder entered guilty pleas in Woodford Circuit Court to charges associated with a 2013 robbery committed in Woodford County. The defendants committed this robbery and then later that day drove back to Lexington and committed two additional robberies.

“I appreciate the dedication of my prosecutors in helping obtain justice for these victims,” Attorney General Conway said. “It is essential that we maintain strong working relationships with all law enforcement agencies in Kentucky. These strong relationships promote efficient investigation and prosecution of cases that touch several victims in multiple jurisdictions.”



Arion Harmon



Robert Mulder

Harmon and Mulder both pled guilty to Facilitation to Robbery in the First Degree and Persistent Felony Offender Second Degree for the Woodford County robbery. Their sentence on the Woodford County robbery will be eight years and will run consecutive to previous sentences on the Lexington robberies. Both defendants pled guilty in Fayette Circuit Court on March 26, 2015. Harmon pled guilty to robbery second degree for the Fayette County robberies and accepted an 11-year sentence. Harmon's total sentence on all robberies will be 19 years. Mulder pled guilty to robbery second degree for the Fayette County robberies and accepted a 12-year sentence. Mulder's total sentence on all robberies will be 20 years.

Former Marshall County Caregiver Pleads Guilty and is Sentenced for Abuse

David McClure, a 61-year old resident of Gilbertsville, Ky, entered a guilty plea and was sentenced on a charge of recklessly abusing a vulnerable adult at a long-term residential care facility located in Marshall County, Ky. McClure entered an Alford plea and was sentenced in Marshall District Court to six months in jail, which will be suspended for a period of two years. As a condition of his suspended sentence, McClure agreed to have no contact with the victim and agreed not to work or volunteer in a Medicaid facility or in any position where he would be in contact with children or adults with physical or legal disabilities.

David McClure was a caregiver for a 28-year-old developmentally disabled resident of a Community Alternatives Facility in Benton, Kentucky. In pleading guilty, it was alleged that in July 2013, McClure forcefully pulled and twisted the arms of the victim to restrain him while he was sitting in a chair. The victim suffered bruising as a result of the incident. This charge is a Class A misdemeanor with a penalty range of up to 12 months in jail.

Attorney General Conway's Medicaid Fraud and Abuse Control Unit investigated this case after a referral from the Department of Community Based Services. The case was prosecuted by Marshall County Attorney Jeffery Edwards.

"I believe strongly that every patient in a nursing home, Medicaid facility, or personal care home deserves to be treated with dignity and respect and should be free from patient abuse, neglect or exploitation," Attorney General Conway said. "Instances of abuse will be investigated, and when appropriate, prosecuted."

Passing of Delaware Attorney General Beau Biden

This past weekend, Former Delaware Attorney General Joseph "Beau" Biden III, died at the age of 46 after a battle with brain cancer. He was a good friend and colleague of Attorney General Conway. He was elected as Delaware Attorney General in 2006 and 2010. In 2014, he announced his intention to run for Governor of Delaware.

Attorney General Conway released the following statement after learning of his friend's passing:

"I am deeply saddened to learn of the passing of my good friend Beau Biden. He gave so much to Delaware and our nation, and he had so much more to give. He has left us way too early. Beau was one of my closest friends among the states' Attorneys General, and he traveled to Kentucky several times - most recently in 2013 to keynote the Wendell Ford Dinner. He was so passionate about using our offices to take on entrenched special interests that harmed ordinary citizens, whether in Delaware, Kentucky or elsewhere. He was a tireless advocate for veterans, and I am thankful for his service to our country.

Beau was a father, family man, soldier, veteran, public servant, advocate - and someone with an abiding sense of what was just and right. I will miss him, and remember those for whom he fought. Elizabeth and I send our condolences to his wife, Hallie, his children Natalie and Hunter, and to the entire Biden family."

