TAXPAYERS PROTECTION ALLIANCE

OUTSOURCED JUSTICE:

How State Attorneys General Are Handing Enforcement Authority to Trial Lawyers and Leaving Taxpayers with the Bill



NOVEMBER 2026

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ABOUT THE TAXPAYERS PROTECTION ALLIANCE

The Taxpayers Protection Alliance (TPA) is a non-partisan, non-profit organization dedicated to educating the public through research, investigative reporting, and analysis about the effects of excessive taxation and spending by all levels of government. TPA also educates the public about government transparency and openness in the United States and around the world. Through blogs, commentaries, special spending alerts, and media appearances, TPA publishes timely exposés of government waste, fraud, and abuse. Recognizing the importance of reaching people through traditional and new media, TPA utilizes blogs, Twitter, Facebook, and user-generated videos to reach out to taxpayers and government officials.

EXECUTIVE SUMMARY

It's a tale as old as politics itself: politicians regularly try banning or restricting economic behaviors and activities they don't like. When they fail to regulate these disfavored activities, they resort to litigation. The conventional playbook over the past two decades has been for plaintiff law firms to seek contingency-fee contracts from attorneys general (AGs), enriching themselves at the expense of consumers. While this has mainly been a tactic of blue-state politicians, the playbook has now expanded to include AGs on the other side of the political aisle. This report documents the rise of AGs across Arkansas, Florida, Indiana, Iowa, Kentucky, New Hampshire, Ohio, Tennessee, and Texas who use outside counsel and go beyond the scope of their offices to pursue investigations and litigation fueled by the trial bar's agenda. It also documents the ecosystem of law firms that have grown to capture, drive, and profit from that work.

The trend takes two forms. First, Republican AGs are hiring "Republican" plaintiff firms to bring lawsuits against businesses using many of the same legal theories favored by Democratic AGs, including expanded consumer protection and public nuisance claims.

Second, Republican AGs are entering into contingency-fee agreements with big corporate defense firms that simultaneously market their access to AG offices as an advantage to the same corporations those offices may be investigating.



Texas offers the clearest example. Under AG Ken Paxton, the office has approved 13 contingency-fee contracts since 2015, far more than comparable Democratic AG offices in New York and California.[1] The firms involved include Keller Postman, The Lanier Law Firm, Kelley Drye, The Buzbee Law Firm, and Holtzman Vogel.

A slew of other states with Republican AGs are now using the same playbook, which shows how quickly the model is spreading.

Following in Texas's footsteps, Kentucky AG Russell Coleman has retained Morgan & Morgan and Motley Rice for the state's opioid litigation and DiCello Levitt for suits against prediction market operators, hiring two firms that other Republican AGs had already terminated.[2] Indiana AG Todd Rokita's office has signed contingency-fee agreements with Taft Stettinius & Hollister for PFAS claims and pharmacy benefit manager litigation, and has joined the Texas-led antitrust coalition, paying the Buzbee Law Firm a 10 percent contingency fee.[3] [4] AG Jonathan Skrmetti's office is among the Republican AG offices represented by Kelley Drye in the national Aqueous Film-Forming Foam (AFFF) firefighting foam litigation, where fee terms

have not been disclosed. Arkansas AG Tim Griffin has retained The Lanier Law Firm to handle four lawsuits, including lawsuits against Roblox and Discord.[5] Iowa AG Brenna Bird's office has hired three outside law firms for three lawsuits involving social media platforms.[6] Florida AG James Uthmeier has now adopted the model, retaining Keller Postman as outside counsel for the first-in-the-nation state AI lawsuit against OpenAI and Sam Altman, filed in Florida court on June 1, 2026.[7] OpenAI removed Florida's suit to the Southern District of Florida on July 2, 2026, but Judge Aileen Cannon subsequently granted Florida's motion to remand on September 8.

The concern is straightforward: contingency-fee arrangements give private lawyers a financial interest in government enforcement decisions. Republican AG offices already have lawyers who can investigate and litigate these cases, yet they are increasingly turning to outside firms whose compensation depends on the outcome. The result is a growing role for private lawyers in deciding which cases the government brings and how those cases are pursued.

At a Glance: State Outside Counsel Engagements

AG / State	Outside Firm(s)	Litigation	Fee Exposure	Central Problem
TX (Paxton)	Keller Postman; Lanier; Kelley Drye; Buzbee; Holtzman Vogel	Meta, Google, J&J/Tylenol, PFAS (3M/DuPont)[8], Roblox[9], BlackRock/Vanguard/State Street	Meta: $97M fee; Google: 10% contingency; PFAS: up to 14%; 13 contingency contracts since 2015	Enforcement agenda effectively set by outside firms; revolving-door hires; no-bid contracts; forum shopping
KY (Coleman)	Morgan & Morgan; Motley Rice; DiCello Levitt	Kroger opioid[10]; OptumRx and Express Scripts PBM; Kalshi, Polymarket, and VGW[11]	Kroger settled $110M, roughly $18M to fees and costs; no contract terms disclosed[12]	Hired two firms that other Republican AGs had already terminated; no state law requires a cost-effectiveness finding, competitive solicitation, or public posting
IN (Rokita)	Taft Stettinius & Hollister	PFAS[13]	Undisclosed	PFAS claims against 3M, Corteva, and dozens of other manufacturers, primarily defense firm
TN (Skrmetti)	Kelley Drye	AFFF firefighting foam MDL	Undisclosed	Defense-side firm marketing AG access

				to corporate clients while representing the state
AR (Griffin)	Lanier Law Firm (w/ Reddick Law)	Roblox and Discord[14] (LA County Superior Court); Snap; Meta/Instagram	No engagement terms disclosed; Ark. Code §§ 25-16-714 and 25-16-715 require posting within 5 business days	State's case filed 1,600 miles away in the #1 Judicial Hellhole®; no AG office attorney on the complaint; public nuisance abatement sought
IA (Bird)	Holtzman Vogel; Keller Postman; Cooper & Kirk	Roblox[15] (Polk County, Dec. 2025); Instagram; WhatsApp; Snapchat; TikTok	Three executed contracts (Roblox, Instagram, WhatsApp), each capped at $50 million	AG praised for terminating an out-of-state contingency firm in 2023 has since signed three more, worth up to $150M combined
FL (Uthmeier)	Keller Postman	OpenAI / Sam Altman (ChatGPT);[16] first-in-the-nation state AI suit	Fla. Stat. § 16.0155 caps the fee at $50M and requires posting within 5 business days	Mass tort firm driving novel AI liability theories under a Republican AG brand
11-state GOP coalition	Buzbee Law Firm (w/ Cooper & Kirk)	BlackRock, Vanguard, State Street ESG antitrust[17]	10% contingency; Vanguard settled $29.5M (Feb 2026)	Personal injury attorney leading landmark federal antitrust case for 11 states

SECTION 1: IDENTIFYING THE PATTERN

The traditional concern with contingency-fee arrangements is well documented in the sense that the plaintiff firms donate to AGs, and those AGs then award these firms lucrative state contracts.[18] For two decades, it was a Democratic story. That's no longer the case. Republican AG offices in Florida, Arkansas, Iowa, Kentucky, Indiana, and Tennessee, and an 11-state coalition, with Texas leading, have signed outside-counsel agreements that give private firms a direct financial stake in state enforcement power.[19] The shift matters because AGs already have the lawyers and resources needed to enforce state law. Their offices employ career attorneys in consumer protection, antitrust, environmental enforcement, and civil litigation whose only client is the public. Yet AGs are reaching out to private law firms in other states to handle cases that their own lawyers could bring.

The Texas AG's office is central to the problem. Ken Paxton's office alone employed many of the senior lawyers who built the multistate enforcement playbook that is now being outsourced to private firms.

The point is simple: taxpayers already pay for an army of lawyers inside the AG's office, yet the state is paying private lawyers to do the same work. That is especially striking given the Republican Attorneys General Association's (RAGA) origins.

RAGA was originally founded because Republican AGs were "reluctant to sue big business' and committed to a 'free market approach to governing." Contingency-fee AG contracts that actively expand the scope and scale of state-power litigation against corporations are a direct inversion of that founding purpose, and they expose every Republican AG who participates to the charge that their office has been captured by the same plaintiff bar infrastructure RAGA was built to oppose.

Three Major Problems with Outside Counsel Arrangements

- **Financial Incentives & Pay-to-Play:** Contingency-fee contracts give private law firms a direct financial interest in the outcome of government lawsuits. The more money a case recovers, the more the firm can make. Critics have warned that these arrangements can create conflicts of interest, favoritism, and the appearance that public enforcement is being used for private gain.[20]
- **Revolving Door Relationships:** Most of the firms have close ties to the Republican AGs' offices that hire them. Kelley Drye's AG practice is led by Paul Singer, a former chief of the Consumer Protection Division at the AG Paxton's office. In a similar vein, Keller Postman hired Zina Bash directly from Paxton's senior staff, then received state contracts from Paxton's office within two months.[21] Holtzman Vogel's State AG practice includes David Johnson, former Policy Director and General Counsel to RAGA and former president of the Rule of Law Defense Fund. These relationships raise obvious questions about how firms are selected and whether the process is truly competitive.
- **Outsourcing Enforcement Decisions:** When private firms identify cases and then handle them on a contingency basis, they have a financial incentive to pursue cases that could generate large recoveries. That can give outside lawyers influence over decisions that traditionally belong to the AG's office: whom to investigate, whom to sue, and which cases to pursue. The concern is not simply that private lawyers are doing the work. It is that they may have a financial stake in deciding what work the government does in the first place.[22]

SECTION 2: THE TEXAS BLUEPRINT THAT SHAPED THE AG TRIAL LAWYER PLAYBOOK

Texas is where the first trend began. AG Ken Paxton's office started hiring "Republican" plaintiff firms to sue businesses under contracts that pay those firms a share of the recovery. The claims are built on many of the same legal theories that have been favored by Democratic AGs for decades, including consumer protection and public nuisance.



Since 2015, the AG's office has approved 13 contingency-fee contracts. Several of the firms involved later appeared in similar matters in Florida, Iowa, Arkansas, and the 11-state antitrust coalition (Texas, Alabama, Arkansas, Indiana, Iowa, Kansas, Missouri, Montana, Nebraska, West Virginia, and Wyoming).[23]

The pattern began with the 2020 whistleblower exodus: after eight senior staff, including the deputies leading the Google antitrust investigation in-house, left Paxton's office. Paxton then signed outside counsel agreements with Keller Lenkner (now Keller Postman) and The Lanier Law Firm and asked the Legislature for $43 million to pay them for a case that the AG's staff had initially intended to handle internally.[24] The staff departures came as the office moved to outside counsel for major cases, including the Google investigation.

The Revolving Door: Keller Postman and Zina Bash

In December 2020, Paxton signed a contract with then-Keller Lenkner to investigate Google. Two months earlier, Zina Bash, previously senior counsel on Paxton's own leadership team,

had resigned her state position. In February 2021, she joined Keller Postman as a partner. Paxton then awarded the firm a second contract for Meta facial recognition litigation, with Bash as co-lead counsel. In that role, she billed $3,780 per hour, compared to the $641 per hour her labor would have cost as a state employee.[25] Meta settled for $1.4 billion in summer 2024; Keller Postman was entitled to 11% of the settlement, or $154 million, and billed an additional $97 million to the state, the largest single outside counsel fee under Paxton's tenure. No competitive bidding process was confirmed for either contract.

Keller Postman received the NLJ Elite Trial Lawyers Award for Government and Privacy Cases in 2025, specifically citing its work on behalf of the State of Texas, and the firm's press materials cite the $1.4 billion Texas settlement as the credential that won it Florida's OpenAI engagement.[26]

Google Antitrust: The Lanier Law Firm

Paxton retained the Lanier Law Firm in December 2020 to investigate Google for antitrust violations under a contingency contract that entitled the firm to 10% of any judgment or settlement.[27]

Mark Lanier and The Lanier Law Firm have also faced judicial criticism. Lanier is a plaintiff-bar operator[28] whose entire professional identity opposes the tort reform priorities that animate the Republican AGs' base. A 2018 Fifth Circuit opinion publicly rebuked Lanier for "unequivocally deceptive conduct" in a $502 million Johnson & Johnson products case, citing undisclosed witness payments and inflammatory closing arguments.[29] That federal appellate rebuke is on the record, and this is the firm a Republican AG chose to carry the state's name into court.

PFAS: Kelley Drye and Lanier as Co-Counsel

In a case filed under the Texas Deceptive Trade Practices Act, Paxton retained Kelley Drye & Warren and The Lanier Law Firm as outside counsel in a suit against 3M and DuPont over alleged misrepresentations about per- and polyfluoroalkyl substances (PFAS) risks to Texas consumers.[30]

Paxton's office identified both firms in its December 2024 announcement, and contracts obtained by the Southeast Texas Record show that the firms can receive up to 14% of any settlement or judgment.[31] Neither firm's selection resulted from a publicly disclosed competitive bidding process.

ESG Antitrust: The Buzbee Law Firm and the 11-State Coalition

In November 2024, Paxton retained Tony Buzbee, a high-profile Houston personal-injury and maritime attorney rather than an antitrust practitioner, as outside lead trial counsel for a multistate antitrust case against BlackRock, State Street, and Vanguard, with 10 additional Republican AGs joining the coalition: Alabama, Arkansas, Indiana, Iowa, Kansas, Missouri,

Montana, Nebraska, West Virginia, and Wyoming. The case was jointly brought with Cooper & Kirk, and Paxton's own release named both outside firms.[32]

The Buzbee Law Firm operates on a 10% contingency basis. In August 2025, the federal court granted dismissal in part and denied it in part.[33] In February 2026, Vanguard settled with the Texas-led coalition for $29.5 million; cases against BlackRock and State Street remain active.[34]

The arrangement is notable because the coalition is paying a personal-injury lawyer a 10% contingency fee to serve as lead trial counsel in a federal antitrust case. Buzbee has also publicly promoted his work with Republican AGs, giving the litigation a profile beyond the case itself.

Holtzman Vogel: Election Lawyers Become AG Vendors

Holtzman Vogel differs from the plaintiff firms discussed elsewhere in this report. The firm is best known for election law,[35] campaign finance, and ethics work for Republican candidates and committees. It has since created a State AGs practice staffed in part by former Republican AG officials, including former RAGA and Tennessee AG staff.[36]

The firm's recent engagements show that its work now extends into state consumer protection litigation. In Texas, Mark Pinkert represented the AG's office in the Roblox litigation. In Iowa, the firm holds a contingency-fee contract worth up to $50 million for the state's Roblox case. Neither office has publicly documented a competitive bidding process.

Tylenol: A MAHA Lawsuit Run by a Mass Tort Firm

In October 2025, Paxton sued Johnson & Johnson and Kenvue under consumer protection law, alleging Tylenol was marketed to pregnant mothers without disclosing autism risks, echoing HHS Secretary Robert F. Kennedy Jr.'s claims.[37] The case is being handled by Keller Postman as outside counsel, the same firm that served as lead counsel in a similar private Tylenol case, which a New York federal judge dismissed a year earlier after finding the plaintiffs' expert witnesses unreliable.[38] In July 2026, however, the Second Circuit revived substantial portions of that litigation after finding that three expert exclusions were improper.

Texas v. Roblox: Outside Counsel Argues for Unlimited Venue

In November 2025, Paxton sued Roblox, alleging the platform exposed children to sexually explicit content and exploitation. This follows a similar lawsuit against TikTok earlier that year.[39] The case was filed not in Austin or another major city, but in King County, a rural expanse with no incorporated communities, on the theory that third-party retailers there sold Roblox gift cards. At the venue hearing, the office's position was argued not by a state attorney but by Mark Pinkert, a Florida-based Holtzman Vogel partner[40] hired as outside counsel, who contended that an online company's ubiquity makes it amenable to suit in any county in Texas.[41]

Roblox's counsel, Ed Burbach, who previously led the AG's civil litigation division, responded that this "is simply not the law" and said that Texans would be shocked that outside counsel was advancing it on behalf of the office. The judge transferred the case to Travis County. SMU law professor Paul Rogers warned that if the theory prevailed, the AG would have sweeping power to file lawsuits in any county, regardless of merit.[42] The episode distills the outsourcing problem: a hired firm, paid to win rather than to exercise prosecutorial judgment, pushed a venue theory the office's own former civil litigation chief considered indefensible, and a court agreed.

SECTION 3: THE KELLEY DRYE & WARREN CASE STUDY

Kelley Drye & Warren (Kelley Drye) perfectly illustrates the second trend shaping this new ecosystem: corporate defense firms leveraging contingency-fee contracts with Republican AGs to establish insider access to those very same offices.



Unlike the other law firms hired by Texas, Kelley Drye & Warren (Kelley Drye) operates on a fundamentally different business model. Firms like Lanier, Keller Postman, and Buzbee are strictly plaintiff firms. Their entire business relies on suing corporations to win a cut of the payout. Kelley Drye, by contrast, is primarily a corporate defense firm whose main work is protecting companies against those exact types of lawsuits in regulatory, environmental, and consumer protection cases.

What makes Kelley Drye both unique and controversial is that it plays both sides of state enforcement. In its marketing materials, the firm explicitly uses its environmental practice representing state AGs as a selling point to corporate clients. Kelley Drye advertises its "unique relationships with AG offices" as a competitive advantage, pitching that its insider experience helps clients know "when and how to engage, who to contact, and how to position our clients effectively."[43]

The firm also highlights its formal memberships in RAGA, the Democratic AGs Association (DAGA), and the AG Alliance to promise corporate clients they are "'in the know' on key policy developments."[44]

That "insider" pitch is embodied by Paul Singer, who leads Kelley Drye's State AG practice. A former chief of the Consumer Protection Division and associate deputy AG for civil litigation in Texas, Singer previously oversaw plaintiff-side civil suits, including opioid and wireless enforcement actions, for the state.[45] Today, Singer defends corporations against the very enforcement machinery he helped build, while Kelley Drye's environmental team simultaneously takes contingency cases from the same Texas AG office he once ran.

Although Kelley Drye is a corporate defense firm, partner Bill Jackson is a prominent plaintiff's attorney who focuses on representing state and local governments suing companies that manufacture PFAS products.

Because of this strategy, when state AG offices pay Kelley Drye a contingency fee, they are effectively subsidizing a business pitch built on access to their own regulators. This dynamic is especially notable in Texas: Kelley Drye holds contracts with at least five Republican AG offices (more than any other firm in the suit), allowing its unique dual-sided strategy to expand across state lines.[46]

The firm's representations of Republican AGs include PFAS litigation in Texas (under Paxton, alongside Lanier), Ohio (under then-AG Dave Yost, securing a $110 million PFOA settlement), and New Hampshire (under Formella), as well as North Carolina's Cape Fear River PFAS case and AFFF multidistrict litigation (MDL) involving AGs in Indiana and Tennessee.[47] [48] The MDL structure means Kelley Drye is simultaneously coordinating strategy for over a dozen state governments in a single litigation, the same multi-client conflict structure that led to Motley Rice's termination by three Republican AGs.[49]

The Ohio engagement carries an additional layer of conflict. Kelley Drye advertises its RAGA membership to corporate clients as a source of access to AGs.[50] Then-AG Dave Yost fought a five-year Ohio Supreme Court battle with the Center for Media and Democracy to conceal his communications with RAGA and its affiliated Rule of Law Defense Fund.[51] During that same period, Kelley Drye & Warren maintained a formal relationship with RAGA while under contract with Yost's office.[52] The firm maintained a formal relationship with RAGA while under contract with Yost's office, effectively leveraging the access it sells to corporate clients to support Yost's efforts through a non-public channel.

Ultimately, Kelley Drye's model creates a self-reinforcing cycle: state contingency-fee contracts generate government access and prestige, which the firm then packages and sells to corporate targets seeking protection from state regulatory power.

Fee Exposure and Opacity

Contracts obtained by the Southeast Texas Record show Kelley Drye and Lanier splitting the 14% share of any recovery in the Texas PFAS matter.[53] Ohio and New Hampshire have not disclosed contingency percentages or special counsel rates for their respective engagements, and neither office has documented a competitive bidding process.

New Jersey illustrates the potential scale. Kelley Drye says its work for the state has contributed to more than $3 billion in PFAS recoveries. If a 5% to 10% contingency fee applied to that amount, the resulting fee would be $150 million to $300 million. That calculation illustrates hypothetical scale rather than New Jersey's actual contract terms, which remain undisclosed.[54]

SECTION 4: THE AG TRIAL LAWYER PLAYBOOK IS GROWING

Texas Created the AG Trial Lawyer Playbook; Kelley Drye Expanded It and Helped Paxton Export It to Other States

Paxton's office partnered with plaintiff firms to work out the mechanics: hire the plaintiff firm, pay it a share of what the state recovers, let the firm pick the theory and the courthouse. Kelley Drye demonstrated that the arrangement is portable, moving the same practice across multiple states while marketing its access to those offices to the corporations it investigates.

What follows is the model expanding into different Republican offices, across different firms and states nationwide. The subject matter varies widely: opioids, forever chemicals, pharmacy middlemen, gaming platforms. The contracting structure does not.

Kentucky: Hiring the Firms Other Republican Offices Fired

In February 2024, weeks into his first term, AG Russell Coleman sued the Kroger Company over its role in Kentucky's opioid crisis. The complaint, filed in Bullitt Circuit Court, alleged that Kroger's pharmacies dispensed more than eleven percent of all opioid pills sold in the Commonwealth between 2006 and 2019.[55] Coleman brought in two outside firms to handle the litigation: Morgan & Morgan and Motley Rice.[56]

Both had recently been shown the door by other Republican offices. Iowa AG Brenna Bird terminated Morgan & Morgan in Iowa in early 2023, and Kansas AG Kris Kobach terminated the same firm in Kansas that year. Montana AG Austin Knudsen fired Motley Rice, one of three Republican AGs, over multi-client conflicts.[57] Kentucky AG Coleman hired both firms.

The Kroger case settled in January 2025 for $110 million. Roughly $18 million of that went to legal fees and costs. Coleman's office has since sued the pharmacy benefit managers OptumRx and Express Scripts, extending the same opioid theory into a second industry.[58]

The office has since moved the model into new subject matter. In June 2026, it filed three suits in Franklin Circuit Court against the prediction market operators Kalshi and Polymarket and the sweepstakes gaming company VGW, alleging unlicensed sports betting and violations of Kentucky consumer protection and gambling law. DiCello Levitt is serving as outside counsel, with founding partner Adam Levitt leading the team.[59] Within days the Commodity Futures Trading Commission filed its own federal suit against Coleman, seeking to bar Kentucky from enforcing its gambling laws against federally regulated markets.[60] A consumer protection theory developed by an outside firm has put the state in direct conflict with a federal regulator.

Kentucky law does not require the AG to determine in writing that outside counsel is cost-effective before signing, to conduct competitive solicitation, or to post these contracts publicly.

Indiana: The Strongest Rules, and the Same Contracts

Indiana is the counterexample on paper. State law bars the AG's office from entering a contingency contract without a written determination that the arrangement is cost-effective and in the public interest. The first factor that determination must address is whether the office already has sufficient legal and financial resources to handle the matter. Fees are capped in the aggregate at $50 million. Every contingency contract is reported to the General Assembly each year.[61]



Indiana mandates an additional layer of oversight absent in other states: before the contract is executed, the state Inspector General must separately determine in writing that it would not violate the ethics code or any conflict-of-interest rule. That places a second reviewer, outside the AG's office, on every agreement.[62]

However, that did not stop problematic contracts from being signed following IG review. In 2023, AG Todd Rokita's office retained Taft Stettinius & Hollister on a contingency basis for PFAS litigation, capped at $50 million, on a five-year term running through 2028 with an option to renew. The suit was filed in April 2024 in Shelby County against 22 manufacturers. Taft's PFAS work is led out of Cincinnati by Robert Bilott, who filed the first PFAS case in the country against DuPont in 1999.[63] Indiana hired the lawyer who built the plaintiff-side PFAS playbook.

The office also holds a contingency agreement with Liston & Deas for pharmacy benefit manager litigation, which produced a $66.5 million settlement with Centene and roughly $3.3 million for the firm.[64] Other Indiana contingency contracts predate Rokita, including one with Cohen Milstein for opioid litigation.[65] Indiana is one of the eleven states paying the Buzbee Law Firm a 10 percent contingency in the ESG antitrust case, and one of the offices Kelley Drye represents in the national AFFF litigation.

Indiana shows what the reform debate usually assumes anyway. A written determination, a fee cap, an independent ethics review, and an annual public accounting did not change the decision. They produced a record of it.

Tennessee: An Appointed Office, and Less on the Record

AG Jonathan Skrmetti is among the Republican AGs Kelley Drye represents in the national AFFF litigation, the same proceeding in which the firm coordinates strategy for more than a dozen state governments at once. His office filed its own PFAS suit in May 2023 against 21 named manufacturers, has active litigation against Meta and Roblox, and has an open investigation into TikTok.[66] Fee terms for the Kelley Drye engagement have not been disclosed, and Tennessee has no statute requiring disclosure.

Two things set Tennessee apart. Its AG is appointed by the state Supreme Court to an eight-year term and serves in the judicial branch rather than the executive branch. He does not stand for election. The argument that outside firms compromise an elected official's accountability to voters carries a different weight when applied to an appointed office.

The second distinguishing factor is that despite building a robust in-house team, the AG's office continues to contract major lawsuits to outside plaintiff firms. In 2023, the legislature funded a ten-attorney strategic litigation unit to handle matters involving the federal government, Tennessee municipalities, and corporate defendants.[67] The office also has a Consumer Protection Division that enforces the Tennessee Consumer Protection Act and has led major cases against companies like Meta, Google, and Apple. Yet when the office sued Roblox in December 2025 under the same Consumer Protection Act, it brought in the Nashville plaintiff firm Stranch, Jennings & Garvey to prosecute the case. [68] With the lawyers, budget, and authority to bring the case itself, the office has no clear reason to outsource it.

SECTION 5: WHERE THE MODEL IS HEADED NEXT: BIG TECH

The most consequential development is the growing use of outside counsel to handle state litigation involving social media, gaming, and artificial intelligence. In Texas and Florida, private firms with a financial stake in the outcome are driving litigation built on expanded public-nuisance and product-liability theories. These theories adapt strategies that plaintiffs' lawyers and Democratic AGs previously deployed in tobacco, opioid, and climate litigation.

The cases below show how this model works in practice. In each, a Republican AG has turned to outside counsel to bring or litigate a major case against a technology company, placing

private lawyers at the center of decisions that would traditionally be handled by the state's own attorneys.

Arkansas v. Roblox and Discord: The State's Case Leaves the State

In June 2026, AG Tim Griffin sued Roblox and Discord on behalf of the people of Arkansas. He did not file in Arkansas. Instead, the complaint was filed in Los Angeles County Superior Court, more than 1,600 miles from Little Rock, and it asks a California judge to apply and interpret the Arkansas law it repeatedly invokes.[69] [70] [71]

The choice of forum matters as much as the filing. The American Tort Reform Foundation ranked Los Angeles the nation's #1 Judicial Hellhole® for 2025-2026, citing plaintiff-friendly rulings and outsized verdicts.[72] That court is also the center of social media litigation built on similar liability theories. In March 2026, a jury found Meta and Google's YouTube negligent in the first of those cases to reach trial and awarded $6 million, divided evenly between compensatory and punitive damages.[73]

The lawyer who tried that case for the plaintiff was Mark Lanier, who told reporters outside the courthouse that the verdict was a referendum on the social media industry. Less than three months later, his firm filed Arkansas's case against Roblox and Discord in the same courthouse.[74] The complaint identifies lawyers from The Lanier Law Firm's California and Texas offices and Reddick Law, a Little Rock firm. No lawyer from the Arkansas AG's Office is listed on the complaint.[75] The complaint also asks the court to order companies to abate a public nuisance, a legal theory that states and courts have spent the past two decades narrowing.[76]

Arkansas law requires the AG to make a written finding that a contingency-fee arrangement is cost-effective and in the public interest. The finding must address whether the office already has sufficient legal and financial resources to handle the matter itself.[77]

The statute also requires the AG to solicit written proposals and post the contracts and supporting findings on the state's transparency website within five business days of execution, and to keep them posted for the life of the contract, with each fee payment posted within 15 days.[78] The provisions were enacted in 2015 and apply to the Lanier engagements at issue here.

AG Griffin and Governor Sarah Huckabee Sanders announced the Lanier retention jointly in March 2023, and the first case against Meta was filed in the Circuit Court of Polk County, Arkansas.[79]

Three years later, the same office and the same firm filed in California. The Roblox and Discord complaint seeks civil penalties of $10,000 per knowing violation of the Arkansas Deceptive Trade Practices Act, alongside disgorgement of profits, restitution, attorney fees, and public nuisance abatement. Consequently, potential recovery is substantial, yet the office has not disclosed the percentage share the firm stands to receive. [80]

Iowa: Three New Contracts After Public Termination

In 2023, Iowa AG Brenna Bird terminated the state's contingency-fee agreement with Morgan & Morgan, saying the arrangement did not serve Iowa taxpayers. Since then, her office has entered three additional contingency-fee agreements with outside firms.[81] Iowa publishes its executed contracts, so the terms of each are on the record. They show how far the office's outside-counsel model has expanded since Morgan & Morgan was let go.

On October 27, 2025, Bird's office signed a special counsel agreement with Holtzman Vogel to investigate Roblox. The executed contract, posted by the Iowa AG's office, entitles the firm to a contingency fee of up to $50 million on a single matter.[82] The suit followed in December 2025 in Polk County District Court under the Iowa Consumer Fraud Act.[83] Holtzman Vogel partner Kellen Dwyer argued the state's position against Roblox's Section 230 defense in April 2026, and in May 2026 the court allowed the deception and unfair practice claims to proceed.[84] [85]



The same contract embodies this conflict structure: Sections 8.2 and 8.3 explicitly record AG Bird's advance consent for Holtzman Vogel to represent other states with similar Roblox claims and to share Iowa's legal and negotiating positions with those co-clients. This arrangement mirrors the same multi-client conflict structure revealed in the Kelley Drye engagements.

Roblox is one of several companies being targeted by plaintiff firms in Iowa. Iowa posts its executed contingency contracts, and the public disclosures reveal a tech platform docket managed almost exclusively by outside counsel.[86] Existing agreements carry the same $50 million cap as the Holtzman Vogel contract. The office has posted contingency contracts on Snapchat and TikTok as well.

Across three separate matters, the office has retained three different outside firms, with up to $150 million in fees available between them. An office once praised for canceling an out-of-state contingency contract as a bad deal for taxpayers has since signed three more.

Florida v. OpenAI: Keller Postman Exports the Texas Model

On June 1, 2026, Florida AG James Uthmeier filed the first state-led lawsuit against OpenAI and its CEO, Sam Altman, alleging that the company deceptively marketed ChatGPT as safe while concealing risks to children.[87] The 83-page, 10-count complaint spans the Florida Deceptive and Unfair Trade Practices Act, negligence, strict product liability, fraudulent misrepresentation, and public nuisance, and seeks to hold Altman personally liable.[88] Keller Postman serves as outside counsel, with senior partner Ashley Keller on the signature block, and the firm's own announcement cites its $1.4 billion Texas Meta settlement as the qualifying credential.[89] Florida law is unusually specific about what should be on the record here.

Existing Florida statutes bar the AG's office from signing a contingency contract without a written determination that the arrangement is cost-effective and in the public interest, and the first finding that determination must contain is whether the department already has sufficient legal and financial resources to handle the matter. The statute directs the AG to request proposals from private attorneys unless he determines in writing that doing so is not feasible, caps the aggregate fee at $50 million on the same declining scale Iowa uses, and requires the contract and the written determination to be posted on the office's website within five business days of execution.[90] The OpenAI engagement is subject to each of those requirements.

The Florida case also follows the broader pattern described in this report: an outside contingency-fee firm, a novel consumer-protection theory, and a filing outside the state's capital. AG Uthmeier has said he expects other states to follow the OpenAI case, while Keller Postman has already used its Texas Meta work to market its Florida engagement.

Tech Litigation Lawsuits Are Proof the Model Is Endless

The technology cases matter beyond the individual defendants because they test liability theories that could be used in other state enforcement actions. The Arkansas Roblox and Discord case combines consumer-protection claims with public-nuisance allegations. The Florida OpenAI case adds negligence, product liability, and personal liability theories.

If those theories survive early challenges or yield significant settlements, they could provide other state AGs and private firms with a template for similar cases.[91]

SECTION 6: THE CASE FOR REFORM

Contingency-fee outside counsel contracting in state AG offices has usually been described as a problem abused by one party. While the practice began in Democratic offices two decades ago, it now runs through Republican offices across the country. Each of the objectives below is a function of how an office contracts, not of which party holds it or which firm it hires.

- **It surrenders the office's independence.** When outside firms generate the cases, draft the complaints, pick the venues, and argue the motions, as documented in Texas, the elected AG is no longer exercising prosecutorial discretion. The lawyers with the fee stake are. The Roblox venue debacle is what that looks like in open court.[92]
- **It is fiscally indefensible.** Texans paid $3,780 an hour for work a state employee performed for $641. A $97 million fee left taxpayer recovery on the table. The office asked for $43 million to outsource a case its own staff was prepared to run.[93] The point about having an army in one's own office is a budget argument before it is anything else.
- **It normalizes contingency-fee enforcement at a large scale.** Kelley Drye promotes its New Jersey results as a "roadmap" for other states; Keller Postman replicated its Texas framework into Florida; AG Uthmeier predicts more states will follow on AI litigation. Each new contract recruits the next office and entrenches a practice that state legislatures have spent two decades working to limit.[94]
- **It builds the precedents that will be used against conservative priorities.** Expanding public nuisance claims against platforms, product liability for product design, and personal liability for corporate executives establishes broad precedents. Once validated under a state seal, these legal theories become available to any future AG office or private firm.
- **It reflects a structural incentive dating back decades.** The 1998 Tobacco Master Settlement Agreement turned litigation into a revenue source that states could tap without raising taxes, and the private attorney contracts that followed have aligned public prosecutorial power with private profit ever since.

CONCLUSION AND RECOMMENDATIONS

The solution is not to ban private counsel in state litigation, but to govern the relationship. Effective oversight requires four pillars: competitive contract bidding, full public disclosure of terms and payments, reasonable fee caps, and strict control of litigation by state attorneys. These principles, codified in the Transparency in Private Attorney Contracting Act, originated in a 2010 Florida statute and have since been adopted by 23 states. The argument for these safeguards transcends partisan lines.[95]

Competitive bidding ensures that politically connected law firms do not receive lucrative government contracts simply because they have close relationships. When state attorneys general solicit multiple bids, taxpayers benefit from the resulting competition. Public disclosure is equally important. Citizens should be able to determine which firms are representing their state and whether the attorneys involved have political or financial ties to the officials awarding the contracts. Without these basic protections, taxpayers are left in the dark about agreements that could ultimately be worth tens or even hundreds of millions of dollars.

Reasonable fee caps are another essential safeguard. Contingency arrangements can help states pursue legitimate claims without committing substantial taxpayer resources upfront,

but they can also produce extraordinary windfalls for private attorneys. A settlement worth billions of dollars does not necessarily require legal work worth hundreds of millions. Fee schedules that reduce the permissible percentage as recoveries increase can help ensure that compensation remains proportionate to the work performed. More importantly, they preserve a greater share of settlement proceeds for taxpayers rather than the private firms hired to represent the state.

Finally, state AGs must retain meaningful control over litigation conducted in the public's name. Private attorneys may provide expertise and additional resources, but they should not independently determine which companies to sue or when to accept a settlement. Those decisions carry consequences for taxpayers and consumers that extend far beyond any individual lawsuit. Elected officials must remain accountable for them. Whether the attorney general is a Republican or a Democrat, the principle should be the same: the government's power to litigate belongs to the public, not to the private law firms that stand to profit from exercising it.

ENDNOTES

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