Beltway Buzz, November 15, 2019

DACA at SCOTUS.

On November 12, 2019, the Supreme Court of the United States heard oral argument in a series of cases challenging President Donald Trump’s termination of the Deferred Action for Childhood Arrivals (DACA) program in September 2017. DACA, which began in 2012, provides work authorization and protection from deportation to individuals brought to the United States as children. A coalition of 143 trade associations and individual companies filed an amicus brief emphasizing the positive impact of DACA on the national economy and urging the Court to rule that the decision to terminate DACA was unlawful because the administration did not provide an adequate explanation for its change in policy. A decision on this case might not arrive until June 2020. Melissa Manna has the details.

EEO-1 Proposal Advances.

Written comments on whether the Equal Employment Opportunity Commission
(EEOC) should revert to the “old” EEO-1 form and ditch the Component 2 wage and hour collection piece were due on November 12, 2019. As the Buzz mentioned previously, a public hearing on the matter will be held on November 20, 2019. After reviewing the comments and making any changes to the proposal, the EEOC will pass it along to the Office of Information and Regulatory Affairs (OIRA), which will schedule another comment period.

NLRB Docket Closes.

November 12, 2019, was also the deadline for the public to submit briefs regarding the circumstances in which the National Labor Relations Act protects profane or racially charged language. The National Labor Relations Board (NLRB) is likely to take some time before issuing a final decision. In Browning-Ferris Industries, for example, the Board did not issue a final decision until more than one year after the public docket closed.

OFCCP Update.

Federal contractors may be interested in two recent developments coming out of the Office of Federal Contract Compliance Programs (OFCCP). First, this week OFCCP issued a new technical assistance guide for construction contractors. The guide is intended to be a “self-assessment tool for contractors to review the practices they have in place to eliminate discrimination and achieve their equal employment opportunity goals.” Second, on November 8, 2019, OFCCP’s effort to codify procedures and documents to “increase clarity and certainty for OFCCP stakeholders” was sent to OIRA for review. This is the last step before the proposal becomes available for public comment.

H-1B Fee Set.

Melissa Manna has the details on U.S. Citizenship and Immigration Services’ recently finalized $10 fee for each H1-B petition employers submit to the new electronic H1-B registration system.

Lady Justice.

November 14, 2019, marked the 39th anniversary of a simple but important change at the Supreme Court of the United States. On that day in 1980, the Supreme Court justices voted 8–1 to drop the word “Mr.” from in front of “Justice” in their title. Justice Harry Blackmun dissented, claiming that the Court should wait until the appointment of a female justice to make the change. Nearly one year later, a female justice was appointed: on September 21, 1981, the U.S. Senate confirmed Sandra Day O’Connor 99–0 as the first female justice of the Supreme Court, replacing retiring justice Potter Stewart.
