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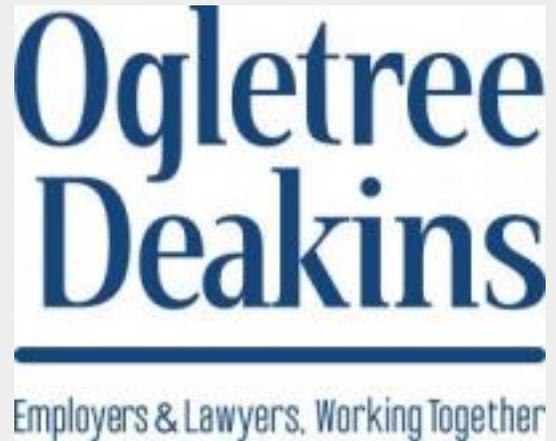
Shutdown Showdown. Trying to keep track of the media reports on the negotiations being conducted to avoid a government shutdown has the *Buzz* feeling as confused as Lou Costello in his famous routine with his partner Bud Abbott (“What?” “Why?” “Who said what?”). Standing in the way of a funding bill are matters like the Deferred Action for Childhood Arrivals (DACA) fix and funding for increased border enforcement. Suffice it to say that if an agreement isn’t reached by the end of the day today, January 19, the federal government will shut down. The last time the government shut down was in 2013, with the Affordable Care Act being a sticking point. For employers, a government shutdown could slow down the processing of U.S. Department of Labor (DOL) forms that are required for H-1B visas and would also likely render the E-Verify system inoperable. National Labor Relations Board (NLRB), Equal Employment Opportunity Commission (EEOC), and Occupational Safety and Health Administration (OSHA) matters could all be impacted as well. Moreover, government contractors might be forced to deal with legal issues surrounding furloughs or reductions in force. On the bright side, at least for the *Buzz*, traffic would be much lighter here in D.C.

DACA Resumes. In the meantime, as a result of the January 9 decision by the U.S. District Court for the Northern District of California, which preliminarily enjoined the termination of DACA, United States Citizenship and Immigration Services (USCIS) has resumed accepting DACA renewal applications. According to a January 13 statement issued by USCIS, “the DACA policy will be operated on the terms in place before it was rescinded on Sept. 5, 2017.” The *Buzz* wonders whether this court decision and the resumption of renewal application processing have had the unintended consequence of reducing the negotiating leverage of DACA proponents on Capitol Hill.

Ring Gets NLRB Nod. After weeks of speculation, on January 12, President Trump officially nominated Washington, D.C., management attorney John F. Ring to fill the NLRB seat that was vacated with the expiration of Philip Miscimarra’s term on December 16, 2017. Although Ring is expected to be confirmed, the timetable for a confirmation vote is unknown at this point (Senate floor time really is at a premium these days). Ring’s confirmation would bring the Board to a 3-to-2 Republican majority. The next Board member term to expire belongs to Mark Gaston Pearce, whose term ends in August of this year.

Stoker to FMCS. Also on January 12, President Trump nominated California attorney Michael Stoker to be the Director of the Federal Mediation and Conciliation Service (FMCS). Among other positions, Stoker previously served as Chairman of the California Agricultural Labor Relations Board. The FMCS plays an important role in the labor-management arena, particularly in high-profile matters, such as the 2002 and 2015 West Coast ports labor disputes. If confirmed, the *Buzz* is hopeful that Stoker’s first act will be to put Taylor and Katy in a room together to put an end to all the “Bad Blood.”

Been There, Done That. On January 18, the Senate Health, Education, Labor and Pensions (HELP) Committee approved Patrick Pizzella to serve as Deputy Secretary for the DOL, Cheryl Stanton to serve as Wage and Hour Division Administrator at the DOL, and Scott Mugno to serve as Assistant Secretary of Labor for OSHA. The nominees have all made it this far in the process before but had to start over when the Senate failed to confirm them at the close of the 2017 Senate session. Now they join the others in a DMV-like line of nominees awaiting



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Senate floor time.

Tribal Sovereignty Bill Passes House. On January 10, the U.S. House of Representatives passed the Tribal Labor Sovereignty Act (Act) as an amendment to a bill concerning Native American water rights. The Act exempts “any Indian tribe, or any enterprise or institution owned and operated by an Indian tribe and located on its Indian lands,” from the definition of “employer” in the National Labor Relations Act. While the stand-alone Act enjoyed bipartisan support in the House, its prospects in the Senate remain uncertain.

“Guidance Dies in Darkness.” Just last week, the *Buzz* discussed agency policy-making that occurs outside the bounds of the Administrative Procedure Act. As we noted, this sub-regulatory activity includes initiatives like enforcement memoranda, compliance guidance, and FAQs. Critics of this type of policy-making decry its lack of notice to—and input from—the regulated community, as well as the difficulty in obtaining judicial review of such activity. In an effort to instill some more transparency in sub-regulatory policy-making, late last week Senator Ron Johnson (R-WI) introduced the Guidance Out Of Darkness Act (GOOD Act), which would require agencies to post any “guidance document” on their websites. This transparency is all well and good, but the *Buzz* thinks the bill misses the larger problem with guidance documents: lack of stakeholder input.

Congressional Trivia. Who was the first woman *elected* to the U.S. Senate? January 12 marked the 86th anniversary of the election of Hattie Wyatt Caraway to serve as senator from Arkansas. In 1943, Caraway also became the first woman to preside over the Senate.

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