

From: Public Policy Law360 <news-q@law360.com>  
To: Adams, ChaneyChaneyAdams@gov.sc.gov  
Date: 11/28/2016 4:49:11 AM  
Subject: 'Judicial Emergencies' Near Breaking Point As Nominees Languish

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## PUBLIC POLICY

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Monday, November 28, 2016

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### IN-DEPTH

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#### Feature

#### 'Judicial Emergencies' Near Breaking Point As Nominees Languish

Some federal judges are facing 60-hour workweeks, near-constant travel and other hardships as a slew of vacancies remain unfilled.

### TOP NEWS

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#### Blocked Overtime Rule Leaves Employers With Pay Dilemma

A Texas federal judge's recent decision to block the U.S. Department of Labor's new white collar overtime rules has forced a difficult decision on employers who may have already announced or even implemented salary changes based on the regulations, offering them a chance to avoid those increases but not without threatening workplace morale.

#### Analysis

#### If Sessions Gets AG, Expect Hardline Immigration Moves

A well-known immigration critic, Sen. Jeff Sessions, R-Ala., could have a major impact on immigration issues in the U.S. if confirmed as attorney general, including by staffing a key immigration board with more "enforcement-oriented" members and overseeing a hardline approach in litigation, experts say.

#### Biz Group Loses Stay Bid In DOL Fiduciary Rule Challenge

A D.C. federal judge on Wednesday denied a renewed request by a financial services industry group to block the U.S. Department of Labor's rule expanding the definition of a fiduciary for retirement account investment advisers, saying the court had already determined the DOL's interpretation was reasonable.

#### Ark. Challenges Federal Regional Haze Plan At 8th Circ.

The state of Arkansas on Tuesday filed a court challenge in the Eighth Circuit to the U.S. Environmental Protection Agency's implementation plan to reduce haze in the state, saying it would cost millions.

#### Congressional Dems Seek Probes Of Trump Conflicts

Congressional Democrats on Wednesday asked a government watchdog agency to review potential conflicts of interest swirling around President-elect

### LAW FIRMS

Akin Gump  
Beatty & Wozniak  
Blank Rome  
Browne George  
Bryan Cave  
Cooley  
Covington & Burling  
Cullen Law Firm  
Fraser Stryker  
Gardere Wynne Sewell  
Godwin Bowman  
Graves Dougherty  
Graves Garrett  
Hadsell Stormer  
Harris Wiltshire  
Holland & Knight  
Hunton & Williams  
Jackson Walker  
Kanner & Whiteley  
Keefe Bartels  
Littler Mendelson  
Marashlian & Donahue  
Michelman & Robinson  
MoloLamken LLP  
Morrison & Foerster  
O'Melveny & Myers  
Ogletree Deakins  
Proskauer Rose  
Quarles & Brady  
Reed Smith  
Robins Kaplan  
Sidley Austin  
Skadden  
Smith Robertson

Donald Trump's transition efforts, just a day after a letter asking for a review of his relationship to Deutsche Bank AG.

### FCC Won't Vote On Set-Top, Special Access At Last Meeting

Federal Communications Commission Chairman Tom Wheeler's FCC won't vote at its last 2016 meeting on two major items on his agenda — unlocking the TV set-top box and promoting competition in the market for business data services, according to a tentative agenda.

### 5 DOT Rule Proposals Likely To Draw Trump's Scrutiny

Transportation industry stakeholders unnerved by President Barack Obama's robust regulatory agenda are eagerly anticipating a rollback of rules when President-elect Donald Trump takes over. Here are five U.S. Department of Transportation proposals that might get a skeptical second look under the new administration.

### 4 Tips For Navigating Uncertain Trump Telecom Transition

President-elect Donald Trump's surprise victory cast aside all expectations that the next administration would largely build upon the telecommunications policies of the Obama administration and has many wondering how best to prepare for the uncertainty to come. Here, experts share four ways to get ready for a Trump presidency.

## BANKING & SECURITIES

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### IMF, China Strengthen Financial Reform Pact

The International Monetary Fund on Wednesday said that it has reached an agreement to strengthen its technical cooperation with Chinese securities regulators to help support the country's financial sector reforms.

### HK Regulator Seeks Input On Asset Management Reform

Hong Kong's securities regulator began a three-month consultation program on Wednesday, seeking comment from interested parties on some proposed updates to its rules for the asset management industry, in a move the watchdog says comes after a review of international standards on the matter.

## ENERGY & ENVIRONMENTAL

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### EPA Raises 2017 Biofuel Requirements

The U.S. Environmental Protection Agency on Wednesday raised the amount of renewable fuels that must be blended into gasoline and diesel next year.

### Industry Trade Groups Join Feds In Oil And Gas Lease Row

A D.C. federal judge on Wednesday allowed three energy industry trade associations to intervene in an environmental group's suit challenging the U.S. Department of the Interior's approval of nearly 400 leases that allow drilling and fracking on public lands across three western states.

### Enviros' Suit Against Barge Co., Army Corps Not Sunk

A Texas federal judge on Tuesday denied a bid by a coastal barge facility to toss an environmental group's suit challenging the U.S. Army Corps of Engineers' since-rescinded approval of the operation, holding that the group had shown sufficient evidence backing its claims.

## IP & TECHNOLOGY

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Squire Patton Boggs

Steptoe & Johnson LLP

Stroock & Stroock

Taft Stettinius

Thompson Hine

Venable LLP

Weil Gotshal

Welder Leshin

Western Environmental Law Center

Williams & Connolly

WilmerHale

Wilson Sonsini

Womble Carlyle

Zelle LLP

## COMPANIES

21st Century Fox Inc.

AAR Corporation

Advocate Health Care Inc.

Aerospace Industries Association

American Airlines Group Inc.

American Bar Association

American Chemistry Council Inc.

American Enterprise Institute

American Immigration Lawyers Association

American Petroleum Institute Inc.

American Trucking Association Inc.

Apple Inc.

Association of American Railroads

Bank of America Corporation

Bank of China Ltd.

Chicago Bar Association

Christie's International PLC

Deutsche Bank AG

Electronic Privacy Information Center

Federal Bar Association

Federal Communications Bar Association

Federalist Society

Gazprom

General Motors Financial Co. Inc.

HSBC Holdings PLC

Hong Kong Exchanges and

## Auction Houses Want Atty Fees After Beating Art Resale Suit

Christie's, Sotheby's and eBay are now demanding to have their legal bills repaid after twice beating class action litigation aimed at forcing them to pay royalties to artists under California's art resale law.

## EMPLOYMENT

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### Immigrant Herders Can Contest H-2A Wage Rule, Judge Rules

A D.C. federal judge on Wednesday reconsidered her earlier opinion in a suit by a proposed class of shepherds that said only U.S. citizens could challenge a U.S. Department of Labor rule setting a pay floor for livestock workers, agreeing that immigrants with work authorization also have standing to do so.

### Truckers Take DOT Safety Citation Records Fight To DC Circ.

Independent commercial truck drivers appealed to the D.C. Circuit on Tuesday a federal court decision snuffing out their suit alleging the U.S. Department of Transportation mishandled safety citation records that can hurt truckers' job prospects and business reputation.

## COMPETITION

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### EU Antitrust Enforcers Need Beefing Up, Vestager Says

European Commissioner for Competition Margrethe Vestager said Wednesday that the European Union's governing body may direct member nations to enact new rules to give competition authorities the tools they need to effectively combat cartels.

## PRIVACY & CONSUMER PROTECTION

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### Body Scanners Balance Security, Privacy, DC Circ. Told

The federal government told the D.C. Circuit that the Transportation Security Administration properly justified its rationale for finalizing a rule on airport body scanners, insisting that the agency weighed personal privacy concerns against overall public safety.

## PRODUCT LIABILITY

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### NHTSA Wants Smartphones To Have Driver Mode

The National Highway Traffic Safety Administration, the federal auto safety regulator, wants smartphone manufacturers to add a driver mode to their devices that would curb users from engaging certain apps and using certain functions while behind the wheel, according to new guidelines released on Wednesday.

## GOVERNMENT CONTRACTS

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### Defense Trade Org Pushes Congress On Funding, Ex-Im Bank

The Aerospace Industries Association pressed Congress on Tuesday to approve a full spending bill for fiscal 2017 and to give the Export-Import Bank of the United States the three-member quorum needed to finance deals exceeding \$10 million.

## TAX

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Clearing

London Stock Exchange Group PLC

Los Angeles Times

Monster Beverage Corp.

Motorola Mobility LLC

National Association of Broadcasters

National Bank of Canada

New Jersey State Bar Association

New York Times Co.

Owner-Operator Independent Drivers Association Inc.

PHH Corporation

Physicians for Social Responsibility

Public Company Accounting Oversight Board

Rick's Cabaret International, Inc.  
Samsung Electronics Co. Ltd.

Sierra Club

Sotheby's

The Hospital and Healthsystem  
Association of Pennsylvania

TiVo Inc.

Trump Organization Inc.

Twitter Inc.

Tyson Foods Inc.

Washington Metropolitan Area  
Transit Authority

Washington Post Co.

Wells Fargo & Co.

eBay Inc.

## GOVERNMENT AGENCIES

Arizona Attorney General's Office

Army Corps of Engineers

Bureau of Labor Statistics

Bureau of Land Management

California Department of Justice

Commodity Futures Trading  
Commission

Congressional Research Service

Consumer Financial Protection  
Bureau

Drug Enforcement Administration

Equal Employment Opportunity  
Commission

## IRS To Curb Income Distortion With Proposed Inventory Rule

The Internal Revenue Service issued proposed regulations Friday that would change the way taxpayers engaging in both manufacturing and selling of goods account for inventory costs, in an attempt to reduce income distortion resulting from commingled inventories.

## Tea Party Gets Breathing Room In IRS Tax-Exemption Row

An Ohio federal judge on Wednesday paused a Texas tea party group's tax-exempt application with the Internal Revenue Service, effectively extending a crucial deadline, following complaints from the group that the IRS had twisted the court's earlier injunction against the agency into an excuse to deny the application.

## IMMIGRATION

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### Ariz. Identity Theft Statutes Survive Court Scrutiny

An Arizona district court has largely sided against a migrant justice group and Unitarian minister challenging two Arizona identity theft statutes, ruling that the state was preempted from using I-9 forms in prosecutions, but entering judgment for Arizona when it came to equal protection claims.

## TELECOMMUNICATIONS

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### Longtime Sidley Atty Newt Minow Receives Medal Of Freedom

Newton N. Minow, former FCC chairman and Sidley Austin LLP senior counsel, received the Presidential Medal of Freedom on Tuesday, commemorating his contributions to broadcasting regulations in the early 1960s and a lifetime of legal and academic service.

### Broadcasters Tell DC Circ. FCC Erred In Nixing UHF Break

The National Association of Broadcasters wants to join a D.C. Circuit challenge to a Federal Communications Commission decision axing a key break in the way it calculates restrictions on media ownership, saying Tuesday that the removal of the UHF discount will hurt broadcasters that have the right to intervene in the case.

### FCC Seeks Comment On TiVo's Set-Top Box Rule Waiver

The Federal Communications Commission issued a request for comment Tuesday on TiVo's request for an extension of its waiver from network interfacing requirements for TV set-top box providers.

## PEOPLE

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### Former Ill. Alderman Suspended In Conflict Of Interest Row

The Illinois Supreme Court barred a former Springfield, Illinois, alderman and criminal defense attorney from practicing law for 90 days after he repeatedly represented clients in cases against the city and failed to reveal his potential conflict of interest to city officials.

## EXPERT ANALYSIS

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### REVIEW: The Missing American Jury

Face it, the American jury system is dying. The arguments Professor Suja Thomas makes in her new book deserve consideration by everyone interested in how our government actually works and how it might recapture

European Commission

Executive Office for Immigration  
Review

Executive Office of the President

Export-Import Bank of the United  
States

Federal Aviation Administration

Federal Communications  
Commission

Federal Deposit Insurance Corp

Federal Housing Finance Agen

Federal Motor Carrier Safety  
Administration

Federal Reserve System

Federal Trade Commission

Financial Stability Oversight  
Council

Food and Drug Administration

Government Accountability Offi

Illinois Supreme Court

Internal Revenue Service

International Monetary Fund

NAFTA

National Credit Union  
Administration

National Highway Traffic Safety  
Administration

National Institutes of Health

National Labor Relations Board

Nevada Attorney General's Offi

Securities and Exchange  
Commission

Surface Transportation Board

TRICARE

Texas Attorney General's Office

Transportation Security  
Administration

U.S. Army

U.S. Attorney's Office

U.S. Department of Agriculture

U.S. Department of Energy

U.S. Department of Health and  
Human Services

U.S. Department of Homeland  
Security

U.S. Department of Housing and  
Urban Development

U.S. Department of Justice

the unifying communitarian experience of direct democracy and actual trial by one's peers, says U.S. District Court Judge William Young of the District of Massachusetts.

### [In Congress: 3 Priorities](#)

Three weeks remain on the schedule for the 114th Congress and three unfinished priorities remain on the to-do list, say Richard Hertling and Kaitlyn McClure of Covington & Burling LLP.

### [The Trump Administration's Impact On Financial Regulation](#)

President-elect Donald Trump will likely look to the Financial CHOICE Act as a guide to dismantling or replacing what congressional Republicans consider to be some of the more onerous provisions of the Dodd-Frank Act, including the power to unwind banks and the restrictions on proprietary trading and certain investments imposed on banks by the Volcker Rule, say Shaswat Das and Samuel Wolff of Hunton & Williams LLP.

### [How Gov't Shutdowns Impact Event Cancellation Policies](#)

Though the Republicans recently took power of both chambers of Congress and the executive branch, potential partisan fighting means that government shutdowns remain a real threat. Jonathan MacBride and Isabella Stankowski-Booker of Zelle LLP discuss important considerations for event cancellation insurers.

### [Trump And Labor Relations In The Hospitality Industry](#)

In a clear departure from the policies of the Obama administration, President-elect Donald Trump is not expected to favor federal labor and employment agency activism in employment-related matters. Restaurant and hotel owners, operators, and franchisors should watch agency appointments and pending federal lawsuits closely, as they will have a substantial impact on business, says Dana Kravetz of Michelman & Robinson LLP.

### [Transportation Policy In The Trump Era: Part 3](#)

The challenge of revitalizing and updating the nation's transportation and infrastructure will be a focus for the 115th Congress and the Trump administration. In the final installment of a three-part series, attorneys with Squire Patton Boggs look at likely developments in water infrastructure, as well as anticipated developments on the transportation and infrastructure front with regard to congressional committees.

## [LEGAL INDUSTRY](#)

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### [Here's What Top Attorneys Are Thankful For This Year](#)

As the holiday season approaches and the courts head for a bit of a lull, attorneys take some time to tell Law360 what they're most thankful for in 2016. Here are things some leading attorneys were glad to see this year.

### [10 Recently Appointed Judges Named Most Influential](#)

An analysis of decisions handed down by recently appointed federal judges has revealed 10 who have influenced the legal world and are on their way to securing a spot among the nation's most prominent jurists.

### [Rainmaker Q&A: Blank Rome's Jeffrey Sherwood](#)

I think all aspiring rainmakers must understand that every relationship that they have the good fortune to develop is one that requires regular care and

[U.S. Department of Labor](#)  
[U.S. Department of State](#)  
[U.S. Department of Transportation](#)  
[U.S. Department of the Interior](#)  
[U.S. Department of the Treasury](#)  
[U.S. Environmental Protection Agency](#)  
[U.S. General Services Administration](#)  
[U.S. House of Representatives](#)  
[U.S. Navy](#)  
[U.S. Postal Service](#)  
[U.S. Supreme Court](#)

feeding, and a belief that the relationship will provide a future dividend, says Jeffrey Sherwood, partner at Blank Rome LLP.

### Rainmaker Q&A: Godwin Bowman's Sidney Scheinberg

Continuing to pursue business even in the face of hearing the word "no" repeated again and again is an important skill. And not just a sales skill, it's an attitude that every attorney should bring to their client in the courtroom, says Sidney Scheinberg, shareholder with Godwin Bowman & Martinez.

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