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BigLaw Reacts To Trump's Election To The White House

Law360, New York (November 9, 2016, 9:47 PM EST) -- Donald J. Trump has captured the U.S. presidency, bringing with him a promise of change. Law360 asked attorneys how they think a Trump presidency may impact the regulatory landscape and what it will mean for their practices and their clients.



Paul Beard, [Alston & Bird LLP](#)

“We can expect any number of changes if the next administration acts on its promise to roll back environmental regulations and temper the Environmental Protection Agency. These changes might include repealing the Waters of the United States Rule and adopting a new rule that limits the feds' power over private property; revoking regulations that have hampered the fossil-fuel industry; ensuring an [Army Corps of Engineers](#) and EPA that are more measured in their assertion of jurisdiction and enforcement; and appointing federal judges who, as constitutionalists, will serve as a check on congressional and agency overreach.”



Jere L. Beasley, [Beasley Allen Crow Methvin Portis & Miles PC](#)

“I am not real sure what the long range effect of a Trump presidency will have on our firm. However, because we represent ordinary citizens who have problems and those are the core of his support, I have to believe that his being president will have little adverse effect. Of course, a President Trump will have to consider the needs of those people and protect their interests and not cave in to the special interests. I have to believe that the president-elect recognizes the need for a strong and independent court system and will be a protector of that system. He inherits a country whose people are as divided in so many ways as I have ever seen in my lifetime. That makes the court system even more important. My prayer today is that Donald Trump will be able to unify our people. That is a monumental challenge and one that will be a test of character and courage for President-elect Trump.”



Jason Bennett, [Baker Botts LLP](#)

“We anticipate an initial period of uncertainty while energy policy is more closely formulated and direction is provided to the agencies. Federal agencies will likely continue current Obama administration policies until directed otherwise. We anticipate that President-elect Trump will provide support for oil and gas drilling and the coal industry as sources of high wage middle class jobs. A likely reduction of the constraints on U.S. exports of hydrocarbons, including more permissive LNG export policies. Over the medium term, a reduction in regulation in the energy sphere and a promotion of investment in energy infrastructure and activities. President-elect Trump has also indicated less focus on climate change as an essential part of energy policy.”



Adam Biegel, Alston & Bird

“Antitrust may become an even more active — and fluid — area. New administrations often have slightly different priorities, especially in civil and mergers and acquisition cases, though criminal cases tend to be a constant. But President-elect Trump has been involved in antitrust cases, mentioned antitrust enforcement during the campaign and emphasized various concepts that implicate antitrust issues: business freedoms, competitive markets, regulatory burdens and consumer welfare. We will be interpreting agency appointments and actions — as well as proposals from the Republican Congress and the administration’s judicial appointments — with an eye for where campaign themes translate into new legal issues for clients.”



Thomas Bulleit, [Ropes & Gray LLP](#)

“Congress will be empowered to repeal portions of Obamacare that can be undone with a simple majority through budget reconciliation, including the expansion of Medicaid and subsidies for individual coverage, the individual ‘mandate,’ and taxes intended to fund Obamacare — e.g. medical device tax. Replacement, however, requires legislation: 60 votes in the Senate, unlikely without compromises. Mr. Trump favors universal health coverage, so there may be room for compromise. While funding for [Centers for Medicare & Medicaid Services](#)-sponsored innovation programs may be curtailed initially, value-based healthcare is a concept with wide approval outside the context of Obamacare: initiatives of that kind may retain both political support and private sector interest once the dust settles.”



Vincent A. Cino, [Jackson Lewis PC](#)

“It is difficult to predict what the Trump presidency will mean for our practice, as many large issues affecting employers hang in the balance and details of their implementation remain open. It is safe to say our clients can expect significant policy and enforcement shifts with the incoming administration. We will need to see what President-elect Trump does to deliver on his promises to repeal the Affordable Care Act and Dodd-Frank, institute immigration reform and support regulation on paid maternity leave, among other proposed changes. Certainly he will appoint different judges than we have seen over the last eight years, both at the Supreme Court and lower court levels, which could have far-reaching implications for all employers.”



Amanda K. DiChello, [Saul Ewing LLP](#)

“Donald Trump has proposed significant tax reform, including eliminating the federal estate tax and the step-up in basis for estates exceeding \$10 million. We anticipate there will be significant work in the short-term to counsel and advise clients, specifically as to the income and capital gains tax impact of Mr. Trump’s proposed tax reformation. Although there may be a lesser need for more sophisticated tax planning techniques such as grantor retained annuity trusts, qualified personal residence trusts, and sales to grantor trusts, there will always be a need for sophisticated estate planning that is not tax-driven and which serves to preserve wealth and the family unit for generations.”



Fred Dombo, [Nossaman LLP](#)

“As we saw with President Obama’s ethics executive order, our corporate, union and trade association clients will need counsel to comply with Trump’s proposal to expand the universe of people who qualify as a ‘lobbyist’ and broaden revolving door restrictions. They will need to use existing personnel or new hires to be effective with the Trump administration. They will need to evaluate the new restrictions when structuring their teams and look to avoid certain activities or ‘de-list.’ We will be partnering with our clients on their strategies to meet their advocacy needs in the new administration.”



James R. Hammerschmidt, [Paley Rothman](#)

“A Trump presidency will be a mixed bag for employment lawyers in the Maryland, D.C. and Virginia metro area. While Trump may roll back many of President Obama’s recent executive orders that create regulatory burdens on employers and reign in aggressive federal regulators, he will likely have little impact on the recent wave of local legislation involving background checks, minimum wages, family and sick & safe leave and other employment laws and policies. In this area at least, local legislators, state agency initiatives and lawsuits based on local or state law will keep traditional employment lawyers busy regardless of Trump’s approach.”



Christine D. Hanley, [FordHarrison LLP](#)

“I expect President-elect Trump’s experience as a corporate executive and employer will shape his approach to workplace regulation. As a compliance generalist, I’ve spent the last eight years analyzing the flood of this administration’s pronouncements and then fashioning policies and best practices for clients across industry lines. The volume of these pronouncements coupled with the scope of their impacts marooned our clients in a sea of uncertainty, fearful that they may not remain afloat and wondering ‘what’s next?’ I anticipate the Trump administration will chart a course less threatening to business and I’m looking forward to navigating that route.”



Stephen J. Hirschfeld, [Hirschfeld Kraemer LLP](#)

“While this election exposed deep political divisions among management-side labor and employment attorneys, the common denominator — and something folks of all persuasions no doubt will look forward to — is the likelihood the new administration deals a death-blow to the incredibly divisive, ill-conceived ‘Persuader Rules.’ These would have created an uneven playing field for companies faced with organizing campaigns, hampering an employer's ability to effectively communicate with counsel. In addition to the ‘Persuader Rules,’ the new administration will, hopefully, reign in the [National Labor Relations Board](#) which has gone overboard with repeated, unjustified attacks on nearly every personnel policy and practice established by management.”



Robert J. Kenney, [Birch Stewart Kolasch & Birch LLP](#)

“Because Trump hasn’t provided details on exactly how his administration will treat intellectual property, it’s just a guess at this point. His main focus has been on preventing Chinese companies from pirating U.S. intellectual property rights. That at least signals the goal of ensuring strong rights to U.S. intellectual property owners and could benefit IP firms. Conversely, his focus on re-negotiating trade agreements could trigger trade wars, adversely affecting the IP rights of U.S. companies overseas as well as the rights of foreign-based owners of U.S. IP rights.”



Merrill Kramer, [Sullivan & Worcester LLP](#)

“It’s unlikely that ITC extension will be repealed. It was enacted as a bipartisan package and while omnibus tax legislation could occur, undoing ITC would require 60 votes in the Senate which is highly unlikely. A Trump appointed EPA will likely restrict or repeal the Clean Power Plan. Trump Supreme Court justices would likely vote to overturn CPP and a Trump Justice Department will decline to defend CPP in the courts. However, the renewables train has left the station. Renewables are a significant economic and jobs driver. State policies are also driving the train. Assuming ITC remains intact, renewables are not going to be turned back.”



Rich LaCava, [Arent Fox LLP](#)

“U.S. patent prosecution relies heavily on international trade in that U.S. companies file patents outside of the U.S. and foreign companies file patents in the U.S. If President-elect Trump were to create significant barriers to international trade that rise to a level where both U.S. and foreign companies no longer find it beneficial to export/import their products, this could have a negative impact on the number of patent filings coming into and going out of the U.S. That being said, I do not believe that such a scenario is likely.”



Kurt Larkin, [Hunton & Williams LLP](#)

“Mr. Trump did not offer much insight during the campaign into what his labor platform might be as president. That said, his business practices suggest he may take a more hands-off approach to labor management relations issues than a more traditionally conservative candidate. We may wind up seeing his presidency have more of an indirect impact on the labor issues employers will face over the next four years. For example, if he follows through on his pledge to invest in infrastructure improvements, he may incentivize businesses to expand their government contracting portfolio. This could create more labor compliance challenges — and union organizing opportunities — for companies getting into the business of being a government contractor for the first time.”



Andrew P. Moratzka, [Stoel Rives LLP](#)

“State and federal energy policy, the electric grid, and utility business model have undergone significant changes during the last 15 or so years. With the election of Donald Trump, change will continue, most likely with respect to the Clean Power Plan and other energy policy reforms. But neither the timing nor the extent of those reforms is presently known. In the meantime, we will focus on counseling our clients on the existing uncertainty so that they are well-positioned to respond to the measures put forth by the new administration and understand how those measures could impact their business and investments.”



Harry Nelson, [Nelson Hardiman LLP](#)

"Trump's presidency is great news for our practice. The anticipated sweeping changes in laws and regulations related to the ACA rollback, the insurance market, and changes in Medicare and Medicaid funding will generate tremendous need for regulatory interpretation and guidance. Our practice was already busy working to help health care companies navigate a transforming industry, and this just added a whole new wave of regulatory transformation ahead. Change is a lawyer's best friend."



Cheryl Pinarchick, [Fisher & Phillips LLP](#)

“Pay equity became a hot topic during the presidential race, with both candidates supporting — at least in principle — equal pay for equal work. With Donald Trump as president, I think we’re less likely to see any sweeping federal reform, but we will likely continue to see an increase in states passing pay equity laws making it easier to establish pay discrimination. The new EEO-1 pay data reporting requirements are also going to make pay data much more available to potential plaintiffs. As a result, I expect to be spending more time defending pay discrimination cases and conducting audits of pay practices.”



Karen-Lee Pollak, [Bell Nunnally & Martin LLP](#)

“Unlike Trump's speeches, his position on immigration — as set out in his position paper — is detailed and specific, calling for a 20-to-60 percent reduction in the issuance of permanent residency or green cards, and an increase in the prevailing wage paid to workers on the professional H1-B visa to \$100K — which will drastically reduce the number of applications. Collectively, these changes will significantly impact family and business immigration practitioners, as permanent residency applications and H1-B applications are core to our business. And, also impacting immigration practices, Trump will likely abolish [the deferred action for childhood arrivals program] and has made reference before to implementing mandatory E-verify.”



Michael Rave, [Day Pitney LLP](#)

“The Trump presidency will clearly benefit the financial services industry. Say what you will about him, but he understands the industry and the dangers of over regulation. Even if Trump is unable to roll back the more extreme aspects of Dodd-Frank, I can’t help but believe that the regulatory tone will change, perhaps significantly. I am optimistic that Trump will focus on the needs of the banking community, and the Trump administration will become a partner, instead of an adversary, of the industry. I believe that his appointees will have the necessary expertise to have a positive effect.”



Stephen (Steve) M. Ryan, [McDermott Will & Emery LLP](#)

“We should prepare for an immediate change with regard to rulemaking. Any rulemaking in the works with agencies that historically have not been favored by Republican majorities — EPA, [CFPB](#), etc. — may be subject to a freeze and/or rollback. And all recently finished regulations being implemented could be suspended pending review. The Office of Information and Regulatory Affairs may become a place where regs related to climate change and other disfavored policies will now go to die. I should note, however, that the ingredients exist for comprehensive tax reform, which may be the type of broad initiative that will move the country forward.”



Andrew L. Sandler, [BuckleySandler LLP](#)

“Having built a law practice during three Republican and two Democratic administrations, I can say with some confidence that our practice may be different at the margins but generally it will be business as usual. The embedded federal and state regulatory and enforcement bureaucracy will continue to place demands on our clients that require our assistance, transactions will need to be negotiated and documented and creative plaintiffs’ lawyers will find causes of action to assert. Thus, our lawyers will continue to be gainfully and constructively employed.”



J. Michael Showalter, [Schiff Hardin LLP](#)

“President-elect Trump indicates he intends to dramatically roll-back Obama administration environmental priorities like the Clean Power Plan as part of his ‘pro-jobs’ agenda. He has also indicated that the EPA’s budget should shrink. These standard conservative principles are no surprise. We are likely to see an increased role for state regulators who now litigate against the federal government on various air, water, and waste-related issues as they re-assert state-level agendas. Statutory enforcement may be essentially ‘outsourced’ to NGOs if EPA’s budget is reduced. Finally, Trump’s appointees to the Supreme Court, over time, are likely to play a critical role on issues generally championed by conservative justices including standing to sue and agency deference.”



Steven Sonberg, [Holland & Knight LLP](#)

“We believe the election results will increase the demand for our services. We expect to see significant changes in many areas, including tax, trade, immigration, energy and healthcare policies. In addition, we believe the regulatory environment affecting businesses will change dramatically. All of these changes will provide us with increased opportunities to serve our domestic and international clients.”



Christopher P. Stief, Fisher & Phillips

“A Donald Trump presidency is likely to alter the current administration’s highly critical posture toward restrictive covenants, which culminated with the White House’s recent “call to action” encouraging state legislatures to pass new laws limiting the use of non-compete agreements. In light of his business background and the published reports that Mr. Trump had many of his campaign staffers sign restrictive covenants, it seems likely he would not continue the Obama administration’s hostility toward non-competes. Indeed, he might well veto any Congressional legislation designed to limit the use of non-competes with lower wage workers.”



Becki Young, Hammond Young Immigration Law

“I predict that the advice of skilled and experienced lawyers who can navigate our complex web of immigration laws will only become more valuable and in-demand. I expect the need for quality immigration legal services will increase not only among the undocumented, whom Trump has specifically targeted, but also among highly skilled foreign workers and the U.S. companies that hire them, on whom my practice focuses — and who would be impacted by Trump proposals such as a temporary moratorium on all employment based green cards, and changes to the H-1B program intended to protect the domestic workforce.”



Joshua Zuckerberg, [Pryor Cashman LLP](#)

“The doctrine that first comes to mind when considering a Trump presidency is ‘stare decisis,’ i.e., that precedent should be given significant weight in resolving legal disputes. It is fair to be concerned that Trump will make good on his promise to upend so much of what has been established by the Obama administration — everything from new overtime regulations and the Affordable Care Act to how employers should manage their transgender workforce. Clients invest time and resources to learn and adapt to these rules and regulations, and to the extent that Trump reverses them, it will certainly cause significant disruption and readjustment in how employers manage these complicated issues.”

--Editing by Emily Kokoll.

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