



October 2020

Spotlight

U.S. Supreme Court Rules in Favor of Burr's Petition for the South Carolina Election Commission: South Carolina's Witness Requirement on Absentee Ballots is Here to Stay

On October 5th, the Supreme Court reinstated the requirement that South Carolina's absentee ballots must be accompanied by a witness's signature in this year's General Election. Under the law, voters returning mail-in ballots swear an oath printed on the return envelope that confirms they are eligible to vote and that the ballot inside is theirs. The oath has to be witnessed by another person with the witness's signature and address below the voter's.

Burr & Forman's legal team, composed of [Grayson Lambert](#), [Liz Crum](#), and [Jane Trinkley](#), worked on behalf of the South Carolina Election Commission to ask the U.S. Supreme Court to stay the injunction and leave the witness requirement in effect for the November election.

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Assistance from Burr Helps Bring \$19 Million in JEDA Bonds to St. Joseph/Candler Health System

Through a bond issued by the South Carolina Jobs-Economic Development Authority ("JEDA"), St. Joseph's/Candler Health System is able to expand its services to a new medical campus in Bluffton, South Carolina. The tax-exempt Hospital Revenue Bonds, totaling approximately \$19 million, will be used to finance and refinance the acquisition of land, buildings, and equipment

needed to consolidate oncology services in one location for the new medical campus.

Burr's [Michael Seezen](#) served as South Carolina co-Bond Counsel for this project.

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Focus

Burr Launches Women's Podcast Series Focusing on Mental Health

The Women's Podcast Series will talk about work/life balance, managing stress and anxiety, and career development. [Erin Hewitt](#) is kicking off the series with special guest Madeline McGrane, a friend and client of hers, to talk about [work/life balance](#) and what that looks like in a remote working environment.

Erin is a partner in the firm's Atlanta office and serves as the practice group leader for the firm's Real Estate Practice.

[Download Episode 1](#)

In [Episode 2](#) of the Women's Podcast Series, Burr partner [Callie Whatley](#) discusses managing stress and anxiety during the current pandemic. She is joined by Carissa Dore, a licensed psychotherapist and owner of "Every Girl Living", a company focused on helping women heal, grow, and conquer the challenges they face.

Callie is a partner in the firm's Birmingham office and serves as the firm's Corporate and Tax Group Vice-Chair.

[Download Episode 2](#)

Resources

Voting Leave Laws

Do you know what your state requires when it comes to allowing employees time off to vote? Find out which states require voting leave and what employer actions might interfere with employees' voting rights.

This [article](#) was authored by [Seokwon Lee](#), [Ingu Hwang](#) and [Devin Dolive](#).

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Labor & Employment Podcast: Enforcement of Face Coverings

In [Episode 4](#) of the Labor & Employment Podcast Series, Mobile-based partner [Katy Willis](#) and Nashville-based partner [Emily Mack](#) take a deeper dive into regulations as they relate to the enforcement of face coverings for employers and customers. They discuss designs on masks worn by employees, as well as how dress code policies and potential discrimination can come into play as it relates to this protective wear.

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Federal Court Bars Government from Enforcing Presidential Proclamation's Suspension of Nonimmigrant Visas Against Thousands of U.S. Businesses

Earlier this year, President Trump issued a Presidential Proclamation restricting foreign nationals from entering the United States on certain temporary work visas through at least December 31, 2020. On October 1, 2020, a California District Court issued an order barring the government from enforcing the visa ban, but only against several large corporate associations and their members.

This [article](#) was authored by [Melissa Azallion](#), [Anna Scully](#), [Nina Maja Bergmar](#), and [Jon Eggert](#).

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If Your Retirement Plan Holds Employer Securities

Keep an Eye on the Jander Case, Part II

In March 2020, [Jon Nason](#) posted a blog reviewing the evolution of the legal analysis applied to a retirement plan's holding of "employer securities" under the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). See "[If Your Retirement Plan Holds Employer Securities, Keep an Eye on the Jander Case.](#)" In that blog, he reviewed the "Moench presumption" and the Supreme Court's rejection of the "Moench presumption" in *Fifth Third Bancorp v. Dudenhoeffer*, 134 S.C. 2459 (2014).

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Take 5 Immigration Podcast Series: I-9 Self-Audit

[Episode 10](#) of the Take 5 Immigration Podcast Series covers a topic that is oftentimes overlooked until a company is notified of a state or federal immigration audit, or when an issue involving employee status pops up. Melissa dives into the importance of conducting an I-9 self-audit during these times to make sure records are in order and that the company is following state and federal immigration laws.

The podcast is hosted by Burr partner [Melissa Azallion](#), from the firm's Hilton Head Island office.

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Take 5 Immigration Podcast Series: E2 Investor Visa

In [Episode 11](#) of the Take 5 Immigration Podcast Series, [Melissa Azallion](#) discusses the E2 Investor Visa that businesses should consider and the certain requirements that must be met. She dives into the visa considerations and discusses the eligibility, petition process, expiration period, and family considerations.

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Take 5 Immigration Podcast Series: I-9 Inspection Process

In [Episode 12](#) of the Take 5 Immigration Podcast Series, [Melissa Azallion](#) talks about the I-9 inspection process and what businesses need to know should ICE come knocking.

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Burr Morning Show: Employee Retaliation-Related Issues Join Our Webinar: Friday, October 23 - 9:00 CST/ 10:00 EST

Do you have questions on employee retaliation-related issues? [Submit your questions](#) and chat with our attorneys as we host a virtual Q&A session. Co-hosted by [Katy Willis](#), [Scott Williams](#), and [Nina Maja Bergmar](#). For more information and to register, click [here](#). Attendees are encouraged to submit their questions by Thursday, October 22nd to [Katie Berry](#).

Whether related to business operations, your employees, or potential legal implications, our team can help provide solutions and counsel with perspective from a wide range of legal service areas from food and beverage, health care, and cybersecurity to immigration, labor and employment and insurance coverage.

Stay up to date with the latest COVID-19 resources on our [CORONAVIRUS RESOURCE CENTER](#).

Labor & Employment Update for the Health Care Industry

[Matthew Scully](#) has created a bi-weekly labor & employment update for our Health Care clients and contacts. It is our hope that these updates will provide practical, timely, and straightforward information on employment matters that may impact our clients. In this time when employers' obligations can change quickly, we hope this will help you stay current with recent developments.

2 Key Updates You Need to Know:

OSHA Continues to Focus on Health Care Provider Compliance

Sources:

<https://www.osha.gov/memos/2020-10-02/temporary-enforcement-guidance-tight-fitting-powered-air-purifying-respirators>

<https://www.osha.gov/memos/2020-05-19/updated-interim-enforcement-response-plan-coronavirus-disease-2019-covid-19>

- On October 2, OSHA issued temporary guidance for enforcing initial and annual fit-testing requirements related to tight-fitting powered air-

purifying respirators. The guidance applies to health care personnel and other workers in high or very high exposure risk activities.

- Previously, OSHA issued updated interim guidance in May, specifically targeting hospitals and other health care providers.
- OSHA has focused on proper PPE, training on standards, proper respiratory protection, and recordkeeping and reporting obligations.

Trump Administration Announces H-1B Visa Changes

Source: <https://www.wsj.com/articles/trump-administration-announces-overhaul-of-h-1b-visa-program-11602017434>

- On October 6, the Department of Labor and Homeland Security on Tuesday introduced H-1B policy changes, which will likely make it harder to qualify for the visa.
- Most notable change is with the Department of Labor's prevailing wage requirements as the H-1B visa for high-skilled foreign workers will require employers to pay the workers higher wages than the current levels, effective October 8.
- The new policy will also narrow the type of academic degrees that could qualify an applicant and shorten the length of visas for certain contract workers.

Firm News

Bryan Balogh and Ricardo Woods to Serve on Alabama State Bar's Diversity & Inclusion Committee

Birmingham Partner [Bryan Balogh](#) and Mobile Partner [Ricardo Woods](#) have been elected to serve on the Alabama State Bar Association's Diversity & Inclusion in the Profession Committee for the 2020-2021 year. Bryan will enter his second term serving on the committee while this year will be the first year serving for Ricardo.

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14 Burr Partners Have Been Recognized by *Benchmark Litigation*

14 Burr Partners were recently recognized in the 2021 edition of *Benchmark Litigation*, a guide to the world's leading litigation firms and lawyers. *Benchmark Litigation* determines recommendations by conducting peer reviews and case examinations. Those recognized are highly regarded by their peers and possess a strong case record and positive client feedback.

[John J. Coleman, III](#), [Marcel Debruge](#), and [Henrietta Golding](#) were recognized as Labor and Employment Stars. The "Labor and Employment Stars" cover a wide range of issues related to labor and employment. John Coleman and Marcel Debruge also serve as Fellows in the College of Labor and Employment Lawyers.

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Burr's Erin Hewitt Recognized as a "Georgia Trailblazer" in the *Daily Report*

Atlanta Partner [Erin Hewitt](#) has been recognized as an "agent of change" in the American Lawyer Media publication of Georgia Trailblazers for 2020. Those recognized on the list have made significant contributions within their practice and have taken extra measures to contribute to positive outcomes in such a trying year.

This spring, Erin was able to close 11 real estate transactions totaling \$400 million – all in the midst of extreme uncertainty during the pandemic. Due to the uncertainty surrounding the real estate market and the unforeseen challenges that came along with it, Erin had to come up with new approaches and creative solutions to close the 11 deals this spring.

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Headlines

[OSHA Updates COVID FAQ, Including Reporting Work-Related Deaths](#)

(Source: *Safety + Health*, 2020-10-09)

[Employers May Be Able to Mandate COVID Vaccinations](#)

(Source: *MarketWatch*, 2020-10-06)

[New H-1B Work Visa Restrictions Requiring Higher Wages Unveiled](#)

(Source: *CBS News*, 2020-10-07)

Over Half of Employers Won't Shift Workers' Health Costs in 2021

(Source: *Healthcare Dive*, 2020-10-08)

Employers Consider Benefits to Address Worker Well-Being

(Source: *Reuters*, 2020-10-06)

Burr & Forman Coronavirus ("COVID-19") Resource Center



Burr & Forman is dedicated to serving as your trusted business partner to advise and address the unique challenges your industries are now faced with. Whether related to business operations, your employees, or potential legal implications, our team can help provide solutions and counsel with perspective from a wide range of legal service areas from food and beverage, health care, and cybersecurity to immigration, labor and employment and insurance coverage. We have created this [Coronavirus Resource Center](#) to update you on the latest legal issues surrounding the evolving COVID-19 crisis.



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