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Podcasts

Election 2020: What's Next for SCOTUS?

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In the wake of Justice Ruth Bader Ginsburg's death, President Donald Trump nominated the Honorable Amy Coney Barrett to the U.S. Supreme Court. This episode of We get work™ addresses Justice Ginsburg's legacy as it relates to employers, delves into Barrett's prior employment-related decisions and what they mean for organizations, and explores which key employment issues may land at the Supreme Court - and how they could alter your workplace.

Jackson Lewis P.C. · What's Next for SCOTUS?

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Takeaways

In the wake of Justice Ruth Bader Ginsburg's death, President Donald Trump nominated the Honorable Amy Coney Barrett to the U.S. Supreme Court. A textualist and originalist who once clerked for the late Justice Scalia, Judge Barrett's opinions contain a similar focus on strict adherence to the burdens of proof. A graduate of Notre Dame Law School, Judge Barrett has served on the 7th Circuit Court of Appeals and issued over 100 opinions since appointed by President Trump in 2017.

While we can speculate on how Judge Amy Coney Barrett may rule if appointed to the SCOTUS, no one really knows how she will decide the issues. Justices have been placed on the Court only to rule very differently than anticipated by the party who confirmed them. The only thing we do know for sure is that if Judge Barrett is confirmed to the Supreme Court, at 48 years old, she will likely have a long and lasting impact on the Court.

Her appointment could significantly alter the legal relationship between employees and employers for many generations in a number of areas like wage and hour, discrimination, retaliation, whistleblower protections and more, especially with a very strong conservative majority in place.

What Employers Need to Know

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Practices

Class Actions and Complex Litigation
General Employment Litigation

Services

Election 2020
Reshaping the Judiciary

- In *Herrington v. Waterstone Mortgage Corp.*, Judge Barrett held that the court must conduct the threshold inquiry of whether the arbitration agreement authorized class arbitration as this involves a foundational question of arbitrability. In arriving at this opinion, she explained that this threshold question is of great importance as it could sacrifice the advantages of arbitration. Writing “the lawfulness of the waiver is the easy part of this appeal. The hard part is the question that Epic Systems does not address: what happens next?” She went on to say that “someone has to interpret the arbitration agreement – this time, including the waiver – to determine whether it authorized the collective arbitration that occurred.”
- Judge Barrett’s opinion on a court’s ability to determine significant threshold questions of arbitrability may affect another key issue in arbitration that is winding its way through the federal courts: whether delivery drivers, including drivers in the expanding gig economy, fall under the narrow “transportation worker” exception or exemption in Section 1 of the FAA.
- Judge Barrett has publicly criticized the ACA, as well as the high court’s 2012 decision upholding the law’s constitutionality. Were Barrett to be seated before November 10, she will likely participate in a highly divided decision that could invalidate much, if not all, of the ACA and lead to a complex reaction in the nation’s healthcare system, including significant impacts for employer-sponsored group health plans.
- Historically, Judge Barrett has been balanced in opinions in favor of employers and employees. Her approach to statutory interpretation is restrained, she is careful to adhere to procedural rules, and she is straightforward in her application of law to facts. One example of her balanced approach to discrimination cases is found in her Vega v. Chicago Park District opinion where she upheld a jury verdict in favor of a Hispanic park district employee on her Title VII claim for national origin discrimination but dismissed the employee's 1983 claim. The emphasis of her opinion was to distinguish the standards of the two claims, saying "Sure, there was plenty of room for the jury to find that a causal link existed for the Title VII case, but the standard in a 1983 case for proving a widespread custom of discrimination is a good deal higher, and the employee didn't meet this higher burden."

Transcript

Alitia (00:08):

Welcome to Jackson Lewis' podcast, We get work™. Focused solely on workplace issues everywhere and under any circumstances, it is our job to help employers develop proactive strategies, strong policies, and business oriented solutions to cultivate a workforce that is engaged, stable, and diverse. Our podcast identifies the issues dominating the workplace and its continuing evolution and helps answer the question on every employer's mind. How will my business be impacted?

In the wake of Justice Ruth Bader Ginsburg's death, President Donald Trump nominated the honorable Amy Coney Barrett to the United States Supreme Court. This podcast will address Justice Ginsburg's legacy as it relates to employers, delve into Barrett's prior employment related decisions and what they mean for organizations and explore what key employment issues may land at the Supreme Court and could alter your workplace.

Our hosts today are Stephanie Adler Paindiris and Amanda Simpson. Stephanie and Amanda are principals in the Orlando, Florida office of Jackson Lewis. Stephanie is co-leader of the firm's Class Actions and Complex Litigation practice group. Admitted to the United States Supreme Court and federal courts throughout the country, she defends class and collective actions on behalf of employers and provides daily legal advice and counsel to help employers navigate through today's workplace challenges.

Amanda helps employers by giving advice on the full spectrum of the employment relationship and has successful trial experience in both the state and federal courts. Amanda is a leader in the firm's Class Actions and Complex Litigation practice group and has experienced defending clients against numerous class and collective actions across the country.

Stephanie and Amanda, the question on everyone's mind today is how will the potential confirmation of the honorable Amy Coney Barrett impact my business?

Stephanie (02:20):

Thank you so much, Alicia. It's been a crazy couple of weeks, although I think I might say that every week.

Amanda (02:27):

I'd say it's been a crazy six months, Stephanie.

Stephanie (02:31):

Okay. So let's just start with Ruth Bader Ginsburg and her recent passing at the age of 87. Wow! She just was such a legal giant and hero. I just feel like Amanda, she's one of the reasons why you and I are even sitting here on this podcast talking about her legacy. Principals for such an amazing firm like Jackson Lewis and living our best lives, right? I mean, she had such an impact on so many issues, but let's just talk for a few minutes in this podcast about her impact on employment law, since that's what you and I live and breathe.

What were your thoughts when you heard of Justice Ginsburg's passing?

Amanda (03:10):

It's one of those days I won't forget. I don't even know if you know this, Stephanie, you were actually the one who texted me first about her passing before I got the news alert. I think it's just one of those pivotal days in life, in history. I mean, regardless of what side of the political spectrum you're on, everyone knew that was a day of remembrance and change.

Stephanie (03:36):

I totally agree, Amanda. I think it's one of those moments where I'm going to always remember where I was when I heard that news. It was just eerie and sad. But when you think about Justice Ginsburg, what case comes to mind for you in the area of workplace law?

Amanda (03:51):

You know me and my mind immediately goes to class actions because, as class action lawyers, I really think her partial dissent and partial concurrence in *Walmart v. Dukes* really stands out. I mean, that was another day that everyone, lawyers, employees, employers, women, everyone just knew that day was pivotal.

Stephanie (04:17):

I knew you were going to say *Dukes*, but just to remind everyone, that's the five-four opinion written by Justice Scalia that really set the standard for when a class action challenging employment decisions can be certified.

Amanda (04:31):

Exactly. So you have Justice Scalia who was close friends with Justice Ginsburg, their divergent views, writing an opinion that rejected the lower court's decision to allow certification of a class that could implicate I mean, as many as 1.5 million current and former employees, and they all had claimed that Walmart's alleged policy of giving local managers and supervisors discretion regarding pay and things like promotion decisions, resulted in some sort of systemic discrimination of underpaying and under promoting female employees.

Stephanie (05:17):

I remember that Justice Scalia said that plaintiff's claims must depend on a common contention, like the assertion of discriminatory bias on the part of the same supervisor and that the contention must be capable of class-wide resolution, right?

Amanda (05:31):

Right. The court essentially said, I mean, where is the glue that holds together the millions of employment decisions we are being asked to examine? And Justice Ginsburg dissent said, wait court, you're disqualifying this class action at the starting gate by elevating the standard inquiry to the more stringent standard of whether questions of law and facts, common to class members, predominated over questions affecting only individual members. Her passion of how she believed millions of women could be adversely affected by this standard the Supreme Court was setting, really stood out to me.

Stephanie (06:19):

I totally agree, Amanda. I mean, don't you think her descent there, like always was never, always just about the case in front of her. I mean, I know for example, in *Dukes*, Justice Ginsburg was deeply concerned about in general, the lack of women in managerial roles throughout the country.

Amanda (06:37):

Agreed. And what's really interesting, Stephanie is, we cite the *Dukes* decision all the time in opposing class certification and it's been cited thousands of times since it was issued in 2011. But what that also means is that Justice Ginsburg's dissent, her advocacy for gender equality in the U.S. has also been cited thousands of times and she knew it would be. So what case do you think about when you think of Justice Ginsburg?

Stephanie (07:10):

There's so many, but there are two cases that really jump out at me when I think about Justice Ginsburg. In one of them, she wrote for the majority, which was pretty rare. And in one of them, she wrote for the minority, which was far more common. As for the minority opinion, we all know that Justice Ginsburg was the queen of the dissent. And that was of course by necessity in that she was in the minority for most of her 27 years on the court.

Amanda (07:36):

Oh, Justice Ginsburg definitely did not take dissents lightly.

Stephanie (07:40):

At this point, humor me for a minute, but I know everyone has a favorite Ginsburg quote. I love so many of them and it's been so fun to see them posted on social media since her death. But I think my favorite was an answer that she gave in an interview when asked about these dissents and she said this, she said, "Dissents speak to a future age. It's not simply..."

Stephanie (08:00):

... speak to a future age. It's not simply to say, "My colleagues are wrong and I would do it this way," but the greatest dissents do become court opinions and gradually over time, their views become the dominant view. So, that's the dissenters hope that they're writing, not for today, but for tomorrow. Isn't that an amazing quote? I just get goosebumps when I read it.

Amanda (08:28):

You gave me goosebumps. I actually hadn't heard that one before, but I mean, it's so true. I'm assuming when you talk about one of her pivotal employment dissents you're talking about the *Ledbetter v. Goodyear* case. I think that was the five, four opinion from Justice Alito.

Stephanie (08:46):

Yes, that's exactly right. There's no better example of the power of the Ginsburg dissent than the *Ledbetter v. Goodyear* case back from 2007. Remember in *Ledbetter*, the issue is whether the statute of limitations for a discriminatory pay claim ran from the date the pay decision that caused the disparate pay was made, or whether it ran from each paycheck and Justice Alito writing for the majority held that the pay setting decision was a discrete act and that the statute of limitations ran from that point. But unfortunately, that point was often years in the past making many of those claims untimely.

Justice Ginsburg issued a powerful dissent in that case, which she read from the bench and she felt strongly that the majority opinion simply did not contemplate the realities of the modern workplace and how pay disparities can grow slowly over time and often do not become apparent until much, much later in an employee's career. She ended that dissent, you may remember this, Amanda, but she said, "This is not the first time the court has ordered a cramped interpretation of Title VII incompatible with the statute's broad remedial purpose." She went on to say, "Once again, the ball is in the Congress's court. As in 1991, the legislature may act to correct this court's parsimonious reading of Title VII."

Well, Congress heard and Congress caught that ball. On January 29th, 2009, President Obama as his very first official act as president, signed into law, the Lilly Ledbetter Fair Pay Act, providing that the statute of limitations, purposes of those disparate pay claims, would start anew with each issuance of a paycheck, that was classic Justice Ginsburg. Amanda, the case I was thinking about where she wrote for the majority was *US v. Virginia*. Do you remember that one?

Amanda (10:42):

I do. You know, it's the *Brown v. Board of Education* case for women. That was the case she authored for the majority. It was a seven, one opinion that struck down a ban on women enrolling in the Virginia Military Institute. Now remember that VMI didn't allow women to attend, but instead created a sister school that admitted women and Justice Ginsburg in writing for the majority said that that violated the 14th Amendment and the separate, but equal argument by VMI was just not going to fly. Yet even VMI issued a statement after Justice Ginsburg's death saying, "Nearly 25 years later, VMIs

female alumni are among our nations leaders, in corporate boardrooms, within our military and within our communities."

But Stephanie, we could talk forever about Ms. Ginsburg, but let's talk about who might fill her seat. We are taping this on Thursday, October 1st, 2020, and just last Saturday on September 26th, eight days after justice Ginsburg's death, the president nominated Judge Amy Coney Barrett to sit in Justice Ginsburg's seat. By now everyone knows that Justice Barrett is currently a judge on the Seventh Circuit Court of Appeals and has been there for three years since the president nominated her in 2017.

Stephanie (12:16):

Have you ever appeared before her, Amanda?

Amanda (12:19):

I have not, but I know many of our colleagues at Jackson Lewis have, and who knows, if she gets confirmed, maybe we will argue in front of her someday at the Supreme Court, Stephanie.

Stephanie (12:31):

Oh, from your mouth to you know what.

Amanda (12:34):

The thing that stands out to me ... I know, I'll have to watch what we wish for, right? The thing that really stands out to me about Judge Barrett though, is after graduating from Notre Dame Law School in 1997, she first clerked for a judge on the D.C. circuit but after that, she clerked for the late Justice Scalia. So we're talking about a judge who will likely mirror some of her mentors' opinions, opinions we know are normally in stark contrast to Judge Ginsburg's over the years. So, Stephanie, what are your thoughts about how Judge Barrett might approach the kinds of issues our clients care about? Issues that affect the workplace?

Stephanie (13:17):

We know that Judge Barrett, like most conservative jurists, is a textualist and an originalist. So, that's where she's likely to always start and end with the text of a particular statute or the constitution, and is unlikely to consider the modern application of that text. She and other conservative jurists often look to what they believe the framers intended when they drafted that Constitution, or when Congress passed the statute, what did congress intent? We know that she's been really busy on the Seventh Circuit.

She's issued more than a hundred opinions and no, I have not read all a hundred, sorry, Judge Barrett. I'm sure knowing you, Amanda, you probably did all read 100 in your spare time.

Amanda (14:02):

Not quite yet, no.

Stephanie (14:04):

When I read many of her employment-related decisions, the one I found very instructive about her and her philosophy was her opinion in the *Herrington v. Waterstone Mortgage* case that she decided in October, 2018. Although you and I love class actions, unlike most of our clients, we spend quite a bit of time trying to enforce class action waivers in our client's arbitration agreements. You know, Amanda, that the law surrounding class action waivers in arbitration agreements has been crazy active over the last several years. I mean the Supreme Court has issued so many decisions upholding arbitration, most recently in *Epic Systems v. Lewis*, which as we all know, held that class action waivers did not violate the NLRA.

In *Herrington*, the lower court compelled arbitration, so that's good, but it invalidated the class action waiver in the arbitration agreement, which was not good.

Amanda (15:00):

Not good.

Stephanie (15:01):

I think the only thing worse than a class action in court is a class action in arbitration. Wouldn't you agree with that?

Amanda (15:08):

I might have nightmares about class arbitrations, not going to lie.

Stephanie (15:12):

So as one might expect, sure enough, the arbitrator in that case, awarded $10 million to Herrington and to 174 people that the arbitrator deemed similarly situated. But by the time the case arrived at the Seventh Circuit, the Supreme Court had already decided *Epic*. So that seems like it would have been the end of the story, right? Well, the *Epic* says the waiver's good, so remand it. But in that case, Herrington argued to the panel, including Judge Barrett, that despite *Epic*, the agreement she signed with Waterstone affirmatively permitted class or collective arbitration, even in spite of a waiver indicating otherwise. And Judge Barrett who wrote for the Seventh Circuit just would have none of it. She flatly rejected those arguments and wrote that, "The lawfulness of the waiver is the easy part of the appeal, the hard part is the ... "

Stephanie (16:00):

... waiver is the easy part of the appeal. The hard part is the question that *Epic Systems* did not address, which is what happens next. She went on to say that someone has to interpret the arbitration agreement, this time including the waiver, to determine whether it actually authorized the collective arbitration that occurred.

Amanda (16:18):

This one I have read, and Judge Barrett decided that the threshold issue of whether the agreement authorizes class or collective arbitration is for the court and not the arbitrator. I remember she said that fundamental questions belong in this gateway category, and that the Supreme Court has repeatedly emphasized that the structural features of a class arbitration make it a fundamental change from the norm of bilateral arbitration, and that's because of the distinct structure. Class and collective arbitrations require procedural rigor that bilateral arbitrations do not, and that's her words. I thought that was a really interesting phrase, "procedural rigor."

Stephanie (17:10):

I totally agree. I also noticed her comment in that opinion, where she said, "The stakes of a class or collective proceeding render the loss of appellate review particularly significant for the defendant," so when you put together procedural rigor and the loss of appellate review, it seems to imply that if Judge Barrett were to see this issue again, and it were gray, she would side towards finding that the agreement did not authorize class arbitration, and this is important. Clients often ask us to evaluate whether or not they should implement an arbitration program, and I thought, Judge Barrett's comment about the loss of the arbitration review is really one of the most important factors to consider. So that comment really resonated with me. Are there any other Judge Barrett opinions that jumped out at you in the employment law area?

Amanda (17:58):

That's what I was thinking about as you were talking. I did recently review her decisions, not all 100, though, and I kind of tried to glean how she would rule on traditional employment law issues like discrimination, and how employees can meet their burden to prove discrimination at either the summary judgment stage or at trial. And I actually think some people may be surprised to hear that Judge Barrett has been pretty balanced in opinions in favor of employers and employees. As you mentioned, she's all about the text. And so her approach to statutory interpretation is restrained, and she's really careful to adhere to procedural rules, and is pretty straightforward in her application of law to facts.

She actually wrote an opinion in 2018, it was the *Smith* case, and she held that a reasonable jury could find that a male employee was sexually harassed by male coworkers based on sex, given that there was ample evidence that only male employees and not female employees had been subjected to the harassing conduct. That case really stood out to me.

I think another example of her balanced approach to discrimination cases, especially, is probably found in her opinion, which you might recall, *Vega* opinion. It was just April of this year, actually. And in that case, she upheld a jury verdict in favor of a Hispanic park district employee on her Title VII claim for national origin discrimination, but dismissed the employee's 1983 claim. And the emphasis of her opinion was to distinguish the standards of the two claims. She said, "Sure, there was plenty of room for the jury to find that a causal link existed for the Title VII case, but the standard in a 1983 case for proving a widespread custom of discrimination is a good deal higher, and the employee didn't meet this higher burden."

Now of course, this sort of opinion reminds me of Justice Scalia's opinion in *Dukes*. They both focus

on strict adherence to the burdens of proof, especially in these larger complex cases that would give more employees the ability to sue under a single theory of liability.

Stephanie (20:36):

That's interesting. So do you really think she's going to follow right in Justice Scalia's footprints?

Amanda (20:42):

I mean, you said it. We both mentioned this catch phrase, "procedural rigor," and Judge Barrett's elevating the importance of the text in the process. So I think she will, but of course that begs the question of whether Judge Barrett will become an Associate Justice of the US Supreme Court. As we're recording this podcast, it's been widely reported that the Senate has the votes to confirm Judge Barrett before the November presidential election. But regardless of when a confirmation hearing and vote occurs, if Judge Barrett is confirmed and is the ninth justice on the Supreme Court, in what I believe we can all agree is an already deeply divided country and court, what kind of rulings do you think will be impacted by Justice Barrett, Stephanie?

Stephanie (21:37):

Well, let me get out my tea leaves. I've been definitely trying to see into the future, and you know, Amanda, I don't think that we can look at how a Justice Barrett would rule on issues without considering how her deeply held religious beliefs might impact her decisions. I mean, we know the country is looking at this. We know the Senate is looking at this, and we just can't ignore it. Do you recall the issue coming up three years ago in her confirmation hearing for the Seventh Circuit?

Amanda (22:05):

I do. I remember she was asked about whether she can put her religious beliefs aside and rule on the law, and I actually recall that some felt even asking that question applied a religious test to her nomination. Some felt strongly that Barrett's ability to apply the law fairly and equally to all was critical to being placed on the Appeals Court then, and now on the Supreme Court. So in her confirmation hearing for the Seventh Circuit, she said that she could separate her deeply held religious beliefs from her role as a judge. I just really wonder how the Senate is going to look at this issue, given that we are talking about the Supreme Court of the United States.

Stephanie (22:51):

I agree. I mean, I know that the LGBTQ community in particular is looking really critically at this nomination. As you know, the Supreme Court ruled just this year that Title VII prohibited discrimination based on sexual orientation and sexual identity, and of course that was the case of *Bostok v. Clayton County, Georgia*. And of course not surprisingly, Justice Ginsburg was in the majority of that case. This was heralded as the most important decision impacting the rights of the LGBTQ community, but the decision was a six-three decision, and while the decision was incredibly significant, Justice Gorsuch explicitly left the door open to consider whether exemptions to this prohibition based on religious beliefs would be tolerated. And we know that there are cases in the pipeline that are just waiting to walk through that door that Justice Gorsuch has left open. In fact, if Justice Barrett is confirmed quickly, she just might hear a related case as her very first oral argument. The Supreme Court will hear-

Stephanie (24:00):

... first oral argument. The Supreme Court will hear oral argument in the *Fulton v. City of Philadelphia* case on November 4th, the very day after election day, which is kind of ironic. Do you think it's possible Judge Barrett could actually be seated by November 4th?

Amanda (24:18):

I mean, it seems like the Senate's really going to push for it, so anything's possible.

Stephanie (24:23):

I think it would be so interesting if that occurred. In that case, the city of Philadelphia contracted with various social service agencies to place children in foster care. The contract that the city had with those agencies, one of which happened to be Catholic Social Services, contained a clause and that clause prohibited discrimination, including discrimination based on sexual orientation, when performing its government services. Catholic Social Service refused to place children in foster care with same-sex couples and it said, "To do so would violate their religious beliefs." While the city said, "If you don't do it, you're discriminatory and violating that contract." So it ended the contract. Catholic Social Services brought an action claiming that the city of Philadelphia violated its First Amendment rights of free speech and free exercise.

Interestingly, the third circuit in case, ruled in favor of the city of Philadelphia, and it relied on a 1990 Supreme Court opinion called, *Employment Division v. Smith*. So, here's where this [inaudible 00:01:30]. Smith was the sixth decision written by none other than Justice Scalia. Justice Scalia held that an individual's religious beliefs cannot excuse him from compliance with an otherwise valid law, prohibiting conduct that the government is free to relate. So, in the Fulton case, the Catholic Social Services says, Smith is wrong, it should not have been applied to this case, or should be overturned, by prohibiting discrimination against same- sex couples. The city's actually compelling [inaudible 00:02:07], and that it had the free exercise clause. Of course the city of Philadelphia frames it completely differently. The city asks the Supreme Court, whether the free exercise clause for the city of Philadelphia, for prohibiting discrimination by those performing government services and exercising delegated government power.

So, this is like a really big deal case for so many reasons. It touches upon religious rights, it involves a Catholic institution, it touches upon LGBTQ community, and it might ask Justice Barrett to overturn an opinion by her mentor, Justice Scalia. We know the Supreme Court has accepted lots of [inaudible 00:26:43] his briefs, including from the United States, which is supporting the Catholic Social Services, tons of religious organizations, state city senators, house members, Civil Rights organizations, charitable agencies. Also know from a review of the cert petitions that are coming, many other cases are in the pipeline that involve the Religious Freedom Restoration Act, the LGBTQ community, religious exemptions, and all of those, are going to come before Justice Barrett, if she's on it. The Supreme Court might decide in the next couple of years, that could be impacted if Justice Barrett is confirmed.

Amanda (27:18):

Well, when I put myself in the shoes of our client, I think one of the most important issues facing businesses today, is how to define when someone's an employee and when they're not an employee. And if anyone who's listening, is an employment where HR professional, you're likely asking yourselves, "Seriously? You can't figure out that simple question?" But really, the answer is, "No." And we can't ... and this issue may very well go up to the Supreme Court. We live in a gig economy and COVID-19 has just made us rely even more on that sector. As you know Stephanie, I really didn't leave my house for the first four months during the pandemic. My dog's totally having withdrawals from me leaving the house these days, but I relied on these companies to keep me fed. Possibly too well fed during the time. But these same companies, are facing exhausting challenges from the [inaudible 00:28:18] bar union groups, and various states arguing that their workers are really employees and not independent contractors.

Meaning, they're entitled to pay and businesses have to pay payroll taxes and other benefits. Just last month, the DOL issued a proposed regulation on how to determine whether a worker is an employee or an independent contractor under the FLSA. And they highlighted, it's the nature and degree of the control and the worker's opportunity for profit and loss. But the gist is, the DOL has this rule, different states have different tests, different circuits have different tests. It's a nightmare for national employers, and if the deal rules pass, it'll be afforded deference under the Chevron Test. But it will not stop states and localities from providing different tests or greater protection to individuals.

Stephanie (29:15):

Yeah, I agree. At the end of the day, we could probably talk for hours and try to predict every issue that might come before the Court. And if that issue comes before the Court, what Judge Barrett would do, but we all know that no one knows. Since these appointments are lifetime appointments and they don't need to answer to anyone, we know that Justices has have often been placed on the Court, only to rule very differently than anticipated by the party who confirms that judge.

Amanda (29:44):

I agree. I think the only thing we do know, is that if Judge Barrett is confirmed to the Supreme Court, at 48 years old, she will have a really long and lasting impact on the court, especially a very strong conservative majority in place.

Stephanie (30:00):

That's so true, Amanda. I mean, I really do believe that if Justice Barrett significantly alter the legal relationship between employees and employers for many generations, in every single area that we touch. Wage and hour, discrimination, retaliation, whistleblower protections, and so much more.

All I can say is, employers hold onto your hats, stay tuned, as we learn about, read about, evaluate and of course write about these critical workplace issues facing our clients and their employees. We want to thank you so much for listening everyone, and please be safe.

Thank you for joining us on We get work™. Please tune into our next program, where we will continue to tell you not only what's legal, but what is effective. For more information on today's topic, our presenters and other Jackson Lewis resources, or to subscribe to our podcast, visit jacksonlewis.com. As a reminder, this material is provided for information purposes only. It is not intended to constitute legal advice, nor does it create a client/lawyer relationship between Jackson Lewis and any recipient.

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