

Linda Coberly Discusses the Revival of The Equal Rights Amendment in the D.C. Circuit With *Bloomberg Law*

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Linda Coberly, Winston & Strawn partner and chair of the ERA Coalition’s Legal Task Force, spoke with *Bloomberg Law* recently about the litigation over the Equal Rights Amendment (ERA) and the importance of having the ERA formally recognized and published by the Archivist.

The Attorneys General of Illinois, Virginia, and Nevada—the last three necessary states to ratify the ERA—filed a mandamus action against the National Archivist in the U.S. District Court for the District of Columbia in 2020. The suit sought an order compelling the Archivist to comply with her statutory duty to publish the ERA after receiving the number of ratifications required by Article V of the Constitution. The district court dismissed the suit for lack of standing, noting in the alternative that the seven-year time limit included in Congress’s proposing clause stood in the way of the ERA’s effectiveness and relieved the Archivist of any duty to publish, given that the last three ratifications took place after that time limit had passed. Illinois and Nevada appealed, and the D.C. Circuit heard argument last week.

In support of the district court’s conclusion on standing, the Department of Justice pointed to the debate about the validity of the ERA and the fact that publication would not resolve it. Commenting on this argument, Linda said, “The executive branch is saying the existence of the debate is exactly why the archivist shouldn’t publish it, and I think that has it backwards.” Although both sides agree that publication would not resolve the legal dispute about the ERA’s validity, publication remains important and would have significant practical consequences. Among other things, “[w]hen you go to buy your pocket Constitution, it should have the Equal Rights Amendment in it,” Linda said. “If there’s no published, official version of the Constitution with the Equal Rights Amendment in it, that has an undeniable impact on how people behave.”

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