

Opinion

As we leave 2020 in the rearview mirror, some wishes for 2021

By ALAN J. ORTBALS

So long, farewell, auf wiedersehen, goodbye and good riddance to 2020. What an awful year! Not only were we hit with



Ortbals

the worst pandemic in more than 100 years, we also had to endure the ugliest presidential election since 1876.

Actually, it wasn't the election that was ugly. That went much more smoothly than expected. The post office met the challenge of delivering millions of ballots in a timely fashion. The states did a great job of processing those ballots. And, because of mail in voting, we didn't experience those long lines at the polls that have become commonplace in recent elections.

And, according to the Cybersecurity and Infrastructure Security Agency created via President Trump's signature in 2018, it was the most secure election in American history. Even Attorney General Bill Barr said that he could find no evidence of widespread corruption.

What was so ugly was the aftermath as the Trump campaign mounted legal challenges after legal challenge — more than 50 of them — without success. Striking out in court, the Trump team turned to the legislatures hoping to get them to overrule their constituents and Congress to overturn everything. And, of course, there was the silly lawsuit brought by the state of Texas and 17 other red states hoping the Supreme Court would step in and disenfranchise the voters of the swing states Trump lost. But, despite all of those shenanigans, Joe Biden will be inaugurated on Jan. 20.

A large percentage of the population, however, still believes that Trump was robbed and Biden is a usurper. That seems to require a whole lot of believing to me. To go through all of this and still cling to that belief you'd have to believe that Dominion rigged their machines to change Trump votes to Biden; that hundreds of thousands of dead people voted; that mail in ballots were manufactured and dumped on polling places and that Hugo Chavez, George Soros, China, and even Fox News were all in on the conspiracy. But, beyond that, you would also have to conclude that Republican governors, secretaries of state, election officials, judges and even the U.S. Supreme Court were also in cahoots on the scheme to steal the election from Donald Trump. As I say, that's an awful lot of believing.

On the other hand, could it be possible that there really were 81 million people who were determined to vote Donald Trump out of office? That seems a whole lot more realistic. You might just consider that. So, ready or not, now it's on to 2021. I doubt that Biden will have an easy time of it. I expect Trump to continually hold his rallies to soak up the adulation that he craves, constantly complaining about how the election was stolen from him and reminding us that he was the greatest president since Abraham Lincoln. Maybe that won't be the case, but we can hope for the best and while we're at it, here are some other hopes for the new year. Along with everyone else in the world, I hope to see the eradication of Covid-19. The virus's preferred habitat is the human respiratory system. Vaccines are on the way which will deny that habitat for those who get them. Facemasks do the same. If we'd all wear them, we could kill off this virus, but it takes collective action. I wish that the economy will get back to normal and that all the businesses that have been so severely impacted by our haphazard and rudderless response to the virus return to full vigor quickly. I'd like to see an end to the trade wars so our farmers can go back to selling product rather than collecting subsidies.

An end to violence in the streets. No more looting and burning. No more senseless murders. No more black men being choked to death or shot for no good reason. No more teenagers walking down the street with assault weapons. No more self-proclaimed militias scheming to kidnap governors. No more white supremacists marching in the street. And how about an end to all the hate speech we've had to stomach over the last four years. I wish people would stop buying all these crazy conspiracy theories and start getting their news from honest and accurate sources rather than social media and propaganda outlets. And I wish that we renew our belief in science, listen to the experts, and formulate policy based on sound information. Hopefully, the United States will regain its position as the leader of the free world, reinvigorate NATO, renew our alliances and stop coddling dictators. And, I hope we regain our focus on the environment and resume leadership of the globe in combatting climate change.

2020 was a terrible year. We can all do better. Let's make that our new year's resolution.

Alan J. Ortals, former publisher of the Illinois Business Journal, can be reached at aortbals@ibjonline.com.

Can a boss demand that you get the coronavirus vaccination?

By DENNIS GRUBAUGH

Americans are a hard-headed lot. We don't like being told what to do. We don't want to be told what to watch,



Grubaugh

what to drink, who to socialize with or anything else that will infringe on our rights to choose for ourselves. So long as we're not hurting anybody else, our lives are our own to live.

And so, we come to the sticky wicket of 2021: What do we do about the coronavirus vaccine?

When all common sense and death statistics tell us that we should be getting a shot in the arm, a lot of people are balking, questioning the reliability of the medicine and generally the trustworthiness of the people telling us to take it. People are often suspicious of the government, and they've been given plenty of reason.

In this case, that's bad judgment, although I feel some empathy for those questioning what we put in our bodies. I've never taken a flu shot, and I haven't had the flu for 50 years. Doesn't mean that I won't, but like I said, hard-

headedness is rampant on such matters. COVID-19, though, is a different animal, and as we enter a new year, we face a question of survival on a whole new level. It's not just our own lives at risk; it's also the lives of everyone around us.

That got me to thinking about the workplace and how much management can demand that workers get vaccinations. Bosses with productivity in mind can't be blamed for "strongly encouraging" their associates to roll up their sleeves.

I decided to ask somebody who deals with such things. I reached out to Tom Berry, who grew up in Southwestern Illinois and understands the people here. He's a principal at the law firm of Jackson Lewis and specializes in employment law.

"It is a timely question," Berry told me. "The EEOC guidance that was issued on Dec. 16 largely tracked what I anticipated it would provide once it spoke to the question. While reaffirming that employers do have the right to mandate vaccinations, it did emphasize that it must have an earnest good faith interactive dialogue with an employee who either has a medical condition that requires accommodation as it relates to the vaccine or a sincerely held religious belief."

He continued: "The only mildly surprising nugget from the EEOC guidance was that it suggested that an em-

ployer should accept an employee's claim of a religious objection on its face and should not ordinarily require the employee to substantiate the belief."

In the end, he said the EEOC recognized that an employer does not have to employ an individual who has a medical or religious objection to the vaccine and declines to get vaccinated.

"While recognizing that this may be the final decision under all of the salient circumstances, the EEOC observed that this should be the last option after exploring and concluding that there are no other reasonable accommodations available that would permit continued employment," Berry said.

Historically, the EEOC regulates employer medical requirements, both pursuant to ADA restrictions as well as indirectly through religious discrimination claims. The EEOC has typically given a pro-employee view on employer-mandated medical requirements.

How this plays out in the future is a bit cloudier. Currently there is a 3-2 ratio of Republican-appointed commissioners to the EEOC, and that will change at some point during the Biden administration.

That could place future guidance in a political venue, which, of course, it should not be. COVID is the deadliest scourge of our lifetime and everyone should be

getting this vaccine, if medically possible.

The reality is, not everyone will. Anti-vaccination fears have been growing in this country for most of the last century, despite vaccinations that have largely eradicated such illnesses as smallpox, diphtheria, polio and tetanus.

Berry said there is no federal, state or local law that prohibits or restricts employers from having a mandatory vaccination policy.

"OSHA imposes a 'general duty' on employers to ensure that the workplace is safe from illness or injury, and I can certainly envision a justification that a mandatory vaccination policy is consistent with ensuring that no employees are exposed to COVID from their co-workers or other individuals that they will come in contact with while employed."

Also, the Americans With Disabilities Act does not prohibit mandatory vaccination policies, per se, but it generally requires that any medical policies must be "job related," consistent with "business necessity" and intended to address a "direct threat," he said.

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