

SUPREME COURT STAYS OSHA'S VACCINATION OR TEST MANDATE, BUT UPHOLDS VACCINE MANDATE FOR CERTAIN HEALTHCARE WORKERS

Advisory

1.13.22

Today, the Supreme Court issued an opinion "staying" implementation of the Occupational Safety and Health Administration's (OSHA) Emergency Temporary Standard (ETS). The OSHA ETS imposed minimum COVID vaccination, vaccination verification, face covering, and testing requirements for private employers with 100 or more employees, and the first part of the ETS went into effect earlier this week. With this ruling, the OSHA ETS is stayed indefinitely and no longer in effect until further review by the lower courts. However, it is unlikely that this decision will be disturbed as the Court sent a strong signal that it believed that OSHA lacked the authority to impose the ETS's requirements.

At the same time, the Supreme Court ruled that the Centers for Medicare & Medicaid Services' vaccine mandate for certain healthcare workers would remain in place. This separate mandate affects workers in nursing homes, hospitals, and other facilities that receive Medicare and Medicaid payments from the federal government.

While the OSHA mandate is stayed, non-healthcare employers in Florida – regardless of size – should keep in mind the recently passed Florida law that imposes certain requirements on employers instituting vaccine mandates. Please see our previous client alert ([link here](#)- Florida law relating to employer mandates) on the Florida law relating

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to employer vaccine mandates for more details on its requirements and how employers may comply.