

OSHA's Emergency COVID-19 Vaccination and Testing Standard Blocked

Labor & Employment Law Update

By Matthew Horn on January 13, 2022



In a 6-3 decision just released, the Supreme Court blocked OSHA's Emergency COVID-19 Vaccination and Testing Standard ("ETS") from taking effect, which required employers with one hundred or more employees to conduct weekly testing of all

unvaccinated employees, amongst other things.

While procedurally, the ruling merely reinstituted the stay of the ETS, the ruling signaled the final outcome for the ETS, finding more broadly that the ETS went beyond OSHA's authority. The Court stated: "[a]lthough Congress has indisputably given OSHA the power to regulate occupational dangers, it has not given that agency the power to regulate public health more broadly. Requiring the vaccination of 84 million Americans, selected simply because they work for employers with more than 100 employees, certainly falls in the latter category."

Moving forward, we will continue to keep you advised as to all relevant updates relating to the ETS—and any revised ETS that OSHA attempts to issue in light of the ruling.