

Supreme Court Stays OSHA's COVID ETS

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The OSHA COVID ETS is once again stayed.

On January 13, 2022, the United States Supreme Court stayed OSHA's Emergency Temporary Standard which required that employers with 100+ employees require employees to either (a) become vaccinated against COVID-19; or (b) generally, submit proof of a negative COVID test on a weekly basis and wear a mask (the "ETS"). In so doing, the Court found that opponents of the ETS are likely to succeed on their argument that OSHA lacked authority to impose the ETS because COVID – the Court reasoned – is not an occupational hazard but instead a universal, day-to-day risk.

As a result of the Order, employers are now **not** required to:

- Institute a COVID-19 vaccine mandate;
- Provide paid time off for employees to receive and/or recover from the vaccine (unless required by a different law, such as the Massachusetts COVID Emergency Sick Leave law); or
- Determine and track the vaccination status of employees.

As employers are fully aware, there has been a lot of turbulence in this area. If you have any questions about next steps in light of the stay of the ETS, please do not hesitate to reach out to a member of our Labor, Employment and Employee Benefits Group.



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