

## *U.S. Supreme Court Issued Stay of the OSHA Vaccine Mandate*

On January 13, 2022, the U.S. Supreme Court issued a stay, preventing the implementation and enforcement of OSHA’s Emergency Temporary Standard (“ETS”), which required COVID-19 vaccines and testing for private businesses with 100 or more employees. The Court did not address the merits of the case but stated that the “[a]pplicants are likely to succeed on the merits of their claim that the Secretary lacked authority to impose the mandate,” thereby issuing the stay pending review of the petitions filed with the Court. *Nat’l Fed’n of Indep. Bus. v. Dep’t of Labor*, Nos. 21A244, 21A247, 2022 U.S. LEXIS 496 at \*5 (Jan. 13, 2022). The Court then looked to “whether the Act plainly authorizes the Secretary’s mandate.” *Id.* at 6. The Court asserts “[i]t does not.” *Id.* “The Act empowers the Secretary to set workplace safety standards, not broad public measures.” *Id.* In issuing the stay, the Court stated that, “[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.” *Id.* at 9. The Court further reasoned that “[r]equiring the vaccination of 84 million Americans, selected simply because they work for employers with more than 100 employees, certainly falls in the latter category.” *Id.*

Please note that this ruling is limited to the OSHA Federal Vaccine Mandate. It does not apply to state, local, or private employer mandates. The Court did not stay a separate vaccine mandate for health-care workers at facilities that receive Medicare and Medicaid funds.

For more information, see the full Supreme Court opinion [here](#). We will continue to monitor this case and update our clients accordingly.

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