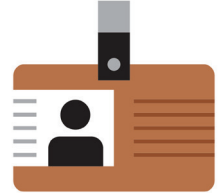




## PHILLIPS LYTLE LLP CLIENT ALERT

### LABOR & EMPLOYMENT

JANUARY 2022



## *U.S. Supreme Court Blocks OSHA's COVID-19 Vaccinate-or-Test Rule*

On January 13, 2022, the United States Supreme Court issued a stay of the Occupational Safety and Health Administration's (OSHA) COVID-19 Vaccination and Testing Emergency Temporary Standard (ETS) requiring employers with 100 or more employees to require that their employees be vaccinated against COVID-19 or submit to weekly testing. In issuing the stay, the Supreme Court only ruled on whether the ETS should be stayed to prevent irreparable harm while challenges to it continue to be litigated in the United States Court of Appeals for the Sixth Circuit. Presently, as a result of the Supreme Court's order, employers with 100 or more employees are *not* required to comply with the ETS.

In its decision, the Supreme Court left open the door that OSHA might be able to issue more limited measures to

combat COVID-19 in the workplace. Although employers at this time do not have to comply with the ETS, employers remain subject to state and local COVID-19 mandates and safety rules. Employers also remain free to adopt mandatory vaccination and testing policies, subject to any state restrictions.

In a companion case decided on the same day, the Supreme Court upheld the COVID-19 vaccination requirement issued by the Centers for Medicare & Medicaid Services.

### **Additional Assistance**

*For further assistance, please contact any of the attorneys on our [Labor & Employment Practice Team](#) or the [Phillips Lytle attorney](#) with whom you have a relationship. ■*



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