

## OSHA Suspends ETS Enforcement After 5th Circuit Blocks Mandate

### Consolidated ETS Litigation Will Proceed in 6th Circuit

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The Occupational Safety and Health Administration (OSHA) vaccination mandate for employers with 100 or more employees expanded from the workplace to the courtroom this week as employers assessed the impact of the following developments:

- **5th Circuit Stays Mandate.** A three-judge panel in the Fifth Circuit Court of Appeals in *BST Holdings v. OSHA* granted a stay of the emergency temporary standard (ETS) mandate pending a review of a motion for a permanent injunction, finding “cause to believe [that the mandate presents] grave statutory and constitutional issues.” The court ordered OSHA to “take no steps to implement or enforce [the ETS] until further court order.”
- **OSHA Suspends ETS Enforcement.** OSHA released the following statement in the aftermath of the 5th Circuit decision: “While OSHA remains confident in its authority to protect workers in emergencies, OSHA has suspended activities related to the implementation and enforcement of the ETS pending future developments in the litigation.”
- **Sixth Circuit Wins the ETS Litigation Lottery.** A three-judge panel in the Sixth Circuit Court of Appeals will hear the consolidated cases challenging the ETS mandate.



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