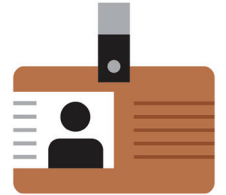




**PHILLIPS LYTLE LLP CLIENT ALERT**  
**FOR BNHRA MEMBERS**  
**LABOR & EMPLOYMENT**

**NOVEMBER 2021**



## *Federal Court Blocks OSHA COVID-19 Emergency Temporary Standard*

As we [previously reported](#), the Occupational Safety and Health Administration (OSHA) issued an emergency temporary standard (ETS) on November 4, 2021, requiring most employers with 100 or more employees to require that their employees be vaccinated against COVID-19 or undergo weekly testing and wear a face covering at work. Almost immediately after OSHA issued the ETS, several lawsuits were filed in federal court seeking to block its enforcement on a variety of grounds. On November 6, 2021, the U.S. Court of Appeals for the Fifth Circuit issued an injunction blocking OSHA from enforcing or implementing the ETS nationwide. As a result, covered employers are not legally required to comply with the ETS and will not be required to do so until, and unless, the stay is lifted. Under the federal court rules, all of the lawsuits challenging the ETS have been moved to, and will be decided by, the U.S. Court of Appeals for the Sixth Circuit, which is located in Cincinnati, Ohio. There is no scheduled time for the court to issue its decision.

Although covered employers are not required to comply with the ETS at this time, they may wish to take steps to prepare to comply with the ETS, if and when the stay is lifted, to reduce the risks and administrative disruption associated with having to quickly come into compliance with the ETS at a later time.

Employers covered by the recently issued Centers for Medicare and Medicaid Services' interim final rule on mandatory vaccinations or Executive Order 14042 mandating vaccinations for employees of federal contractors and subcontractors should note that the stay of the ETS does not affect their implementation.

### **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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