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Federal Court Blocks OSHA Vaccine Mandate

On Saturday, November 6, 2021, the 5th Circuit Court of Appeals, located in New Orleans, LA, issued a stay of the Biden Administration's Covid vaccine mandate, published the day before.

“Because the petitions give cause to believe there are grave statutory and constitutional issues with the Mandate, the Mandate is hereby STAYED pending further action by this court,” the panel ruled.

The states of Texas, Louisiana, Mississippi, South Carolina and Utah are among the plaintiffs in this case. More than two dozen states have filed multiple legal challenges in federal court against the Biden Administration's vaccinate-or-test mandate for private businesses with 100 or more employees

The four lawsuits were filed by groups of 26 states in the 8th Circuit, 11th Circuit, 6th Circuit and 5th Circuit over the past few days. The lawsuits all seek to nullify an emergency rule published Friday that requires companies with more than 100 employees to verify their workers are vaccinated or have unvaccinated workers wear masks and submit to weekly Covid-19 testing. Broadly, the lawsuits argue the Department of Labor lacks the authority to issue a rule and it did not follow the proper procedure in issuing the emergency temporary standard.

The court gave the government until 5 p.m. Monday to respond to the plaintiffs' request for a permanent injunction.

What this means is, at present, the vaccination mandate is temporarily put on hold. The 5th Circuit Court of Appeals is expected to hear argument next week regarding the case. Plaintiffs are seeking, first, a preliminary injunction, that would halt the vaccination mandate during the pending lawsuit and until the Court reaches a final decision. Ultimately, plaintiffs are seeking a permanent injunction barring the mandate from ever going into effect.

The first deadline under the mandate is December 5, 2021. Starting on that date, employers are required to provide employees paid time off to receive the vaccine and/or recover from any side-effects of the vaccination. In addition, this is the date on which unvaccinated workers must start wearing masks. The second deadline under the mandate is January 4, 2022, at which time all employees must be vaccinated or wear masks and undergo weekly Covid testing.

We will continue to provide updates as they become available.

If you have any questions or concerns, please contact Joel S. Aziere at jaziere@buelowvetter.com or (262) 364-0250 or your Buelow Vetter attorney.