



ILA-USMX JOINT SAFETY COMMITTEE

OSH ALERT 2022-02 [13 January 2022]

U.S. Supreme Court Stays OSHA ETS

In a 6 to 3 decision split down ideological lines, the U.S. Supreme Court (SCOTUS) ruled this afternoon to impose a stay upon OSHA’s emergency temporary standard dealing with the vaccination/testing & masking of employees at workplaces employing 100 or more workers.

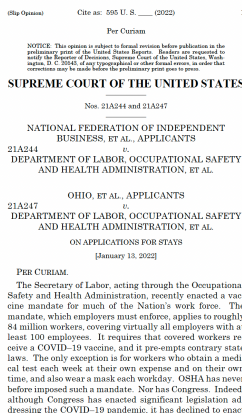
A link to the SCOTUS decision appears below:

<https://documentcloud.adobe.com/link/review?uri=urn:aaid:scds:US:af17d9b3-79c8-45bc-a167-b9b00277959b>

The Majority’s decision appears largely based upon the “Greater Powers” doctrine, which essentially holds that some implied powers [in this case of the OSH Act], even if necessary to effectuate an enumerated powers of a Federal agency [OSHA], are not “proper” because of the degree of their importance.

So, in sum, the Majority’s holding is that requiring the actions of employers to comply with the ETS is an overreach for an agency like OSHA to attempt. Such weighty requirements, according to the Majority, are better left to the individual States and or Congress.

The opinions of the Majority as well as that of the Dissenting Justices are worth reading.



Got a question about this particular subject? Write to the JSC at: blueoceana@optonline.net

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