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OSHA Vaccine Rule Takes Effect As Employers Await Supreme Crt Decision

"It's not a certainty that the OSHA vaccinate-or-test [emergency temporary standard (ETS)] will be stayed (and later killed), but there is very reasonable potential that is the outcome of the case now fully submitted to the nation's High Court," Eric Conn, a founding partner at the employer-focused law firm Conn Maciel Carey, wrote a Jan. 7 blog post published after oral argument in the case.

Despite the current window for OSHA to enforce its ETS, observers say the court's conservative justices seemed to signal that they will ultimately hold that the rule violates the "major questions doctrine," which says rules with "major" impacts require clear and explicit authorization from Congress.

"It seemed that the conservative majority of the Court was leery of OSHA's legal authority to mandate a broad national requirement for workers to be vaccinated or to undergo frequent testing without a more clearly express delegation of that intended standard-setting authority than what Congress had provided in the fifty year-old and somewhat vague OSH Act of 1970," Conn wrote.

Read the full article in *Inside OSHA*