

January 7: Showdown at Supreme Court over Biden Vax Mandates

Oral argument scheduled in two sets of mandate cases, one involving the OSHA employer mandate and the second involving the CMS mandate.

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On January 7, 2022, the US Supreme Court will hear arguments in several cases involving Biden administration Covid vaccine mandates. We covered some of those cases in [Multiple Emergency Applications For Supreme Court To Stop Biden Employer Vaccine Mandate](#):

On Friday, December 17, 2021, the 6th Circuit Court of Appeals, designated to handle multi-district litigation over the OSHA vaccine and testing mandate on large employers, [dissolved a previous 5th Circuit stay](#) of the mandate.

OSHA has [announced](#) that starting January 10, it will start enforcement...

Earlier today, at least two Emergency Petitions were filed with the Supreme Court. There may be more, but these are two that I was able to find (if readers find more, please post in the comments).

A coalition of dozens of states, companies, unions, and individuals filed an [Emergency Application for An Administrative Stay and Stay of Administrative Action](#)....

Separately, BST Holdings and dozens of other entities have filed their own [Emergency Application](#) which also focused on a limited question:

Did the Occupational Safety and Health Administration (“OSHA”) exceed its lawful authority by issuing an Emergency Temporary Standard that mandates vaccination policy for all workplaces with at least 100 employees?

In both cases, the applicants want to focus on OSHA’s (lack of) authority to issue such

an order.

There apparently were additional petitions filed, and the Court has decided to hear four cases. The opposition papers are due December 30.

In the first set of cases the Biden administration is seeking to overturn lower court rulings halting a vaccine mandate issued by the Centers for Medicare & Medicaid Services (CMS)

[Order No. 1:](#)

21A240) BIDEN, PRESIDENT OF U.S., ET AL. V. MISSOURI, ET AL.

21A241) BECERRA, SEC. OF H&HS, ET AL. V. LOUISIANA, ET AL.

Consideration of the application (21A240) for stay presented to Justice Kavanaugh and by him referred to the Court is deferred pending oral argument. Consideration of the application (21A241) for stay presented to Justice Alito and by him referred to the Court is deferred pending oral argument. The applications are consolidated, and a total of one hour is allotted for oral argument. The applications are set for oral argument on Friday, January 7, 2022.

In a second set of cases, litigants are seeking to halt the OSHA mandates which have dominated the news:

[Order No. 2](#)

21A244) NAT. FED'N OF INDEP. BUS., ET AL. V. DEPT. OF LABOR, OSHA, ET AL.

21A247) OHIO, ET AL. V. DEPT. OF LABOR, OSHA, ET AL.

Consideration of the applications (21A244 and 21A247) for stay presented to Justice Kavanaugh and by him referred to the Court is deferred pending oral argument. The applications are consolidated, and a total of one hour is allotted for oral argument. The applications are set for oral argument on Friday, January 7, 2022.

Since OSHA enforcement starts January 10, setting an argument date of January 7 indicates an intention to render a fast decision.

Here is the summary of the arguments:

Anti-Mandate: The mandates exceed the authority of the issuing agencies and do not have a sound scientific basis.

Pro-Mandate: PEOPLE ARE GONNA DIE IF YOU DON'T LET US DO THIS! YOU HEAR THAT, BLOOD WILL BE ON YOUR HANDS!

Conveniently, I did a radio interview this morning with Chicago's Morning Call, and they started off asking my views on the cases (which had not yet been accepted or argument scheduled).

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