

# U.S. Supreme Court Shoots Down COVID-19 Shot-or-Test Rule

By **Monica L. Frantz**

The U.S. Supreme Court has blocked the Occupational Safety and Health Administration’s emergency “vaccine-or-test” rule mandating private employers with 100 or more employees to institute a policy requiring their employees to be vaccinated against COVID-19 or undergo weekly testing.

The Court ruled 6-3 to block the vaccine-or-test rule on the basis that OSHA had exceeded its authority in enacting the emergency rule. The Court described the rule as “a significant encroachment into the lives—and health—of a vast number of employees.” Had the rule not been rejected by the nation’s highest court, it would have required roughly 84 million workers to be fully vaccinated against COVID-19 or submit to weekly testing and wear a mask at work. Justices Stephen Breyer, Sonia Sotomayor, and Elena Kagan dissented.

While blocking the vaccine-or-test rule for large private employers, the Court ruled 5-4 to allow a separate rule to take effect which mandates the COVID-19 vaccine for workers in nursing homes, hospitals, and other facilities that receive Medicare and Medicaid payments from the federal government. The Court reasoned that the regulation serves to protect patients and ensure that healthcare providers take steps to avoid transmitting a dangerous virus to their patients. The Court noted: “It would be the very opposite of efficient and effective administration for a facility that is supposed to make people well to make them sick with COVID–19.” Justices Clarence Thomas, Samuel Alito, Neil Gorsuch, and Amy Coney Barrett dissented.

For additional guidance regarding this topic, please contact one of the listed Roetzel attorneys.

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