

## The Sixth Circuit Court of Appeals Will Hear the Court Challenge to OSHA's Vax-or-Test Rule

By **Morris L. Hawk**

Yesterday afternoon, the Sixth Circuit Court of Appeals was selected to determine the fate of OSHA's "vaccine or test" rule for large employers. The Court will decide whether or not the rule, adopted as an emergency temporary standard, is a valid exercise of OSHA's regulatory powers. The Court will also have the authority to lift the Fifth Circuit's stay of the rule or keep it in place while it decides the issue.

Under the federal rules for multidistrict litigation, the Sixth Circuit (which is located in Cincinnati and covers the states of Kentucky, Michigan, Ohio and Tennessee) was chosen by random draw out of the 12 courts of appeal in which challenges to the rule were filed and its decision will apply nationwide. The consolidated case will be heard by a three-judge panel of the Court. No matter what the Sixth Circuit decides, the dispute will likely end up before the U.S. Supreme Court.

Roetzel will keep you apprised of further developments in this matter.

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