

## OSHA's Virus Emergency Rule – Unintended Consequences?

By **Karen D. Adinolfi**

Shortly after his inauguration, President Biden directed the Occupational Safety and Health Administration (OSHA) to consider an Emergency Temporary Standard to address issues relative to the spread of the COVID-19 virus in the workplace. For employers who violate the ETS, a citation would be issued, which attorneys believe could be used as evidence of employer misconduct in personal injury and wrongful death lawsuits, as well as bolster workers' compensation claims and provide additional avenues for employees to directly sue employers under an "intentional tort" standard.

What remains to be seen is the tension between any ETS and the various state laws, including in Ohio, that provide immunity for businesses and other organizations from those seeking to file a lawsuit alleging exposure to the virus. Once lawsuits involving any ETS standard begin to be filed, we may see clarity into whether a violation of the ETS removes the immunity from a business or organization.

For more information and insight on this matter, please contact one of the listed Roetzel attorneys.

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