

EMPLOYER LAW BLOG

FEDERAL CONTRACTOR UPDATE: Florida Federal Court Joins Missouri, Kentucky, Louisiana, and Georgia in Blocking Federal Contractor Vaccine Mandate

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Five federal courts have now entered injunctions against President Biden's federal contractor vaccine mandate. And at least one Court of Appeals—the Eleventh Circuit—has refused to stay such an injunction on appeal.

The Florida Court first rejected challenges to standing before addressing the merits of the injunction request. The Court agreed with the federal courts in Missouri, Kentucky, and Georgia that the vaccine mandate “almost certainly exceeds the President’s authority under” the federal procurement statute.

As we have noted before, the Louisiana Court that did not reach this conclusion, but blocked the mandate based on constitutional concerns about impermissible intrusion into state police powers under the Tenth Amendment.

The Florida Court largely reserved judgment on the challengers’ arguments “other than whether the President exceeded his authority” under the applicable statute, which it will decide after supplemental briefing by the parties. Nonetheless, the Court did signal how it might address some of these other arguments.

For example, it did discuss potential intrusion into state affairs as a reason why the President exceeded his authority and further noted “even Congress” itself may be unable to legislate in those areas. But the Court also observed that the challengers’ claim that the federal government failed to comply with administrative rulemaking “could fail for the reasons identified” by the Kentucky Court.

The Florida Court concluded its order by finding irreparable harm and the public interest weighing in favor of an injunction. Notably, in addressing these factors, the Court emphasized that the federal contractor vaccine mandate conflicts with new Florida state laws that generally prohibit employers from requiring vaccines without providing certain exemptions: “denial of the proposed injunction would substantially injure Florida entities faced with violating either a federal contract or state law.”

We would expect disputes over the federal contractor vaccine mandate to reach the Supreme Court sooner than later. Exactly when is currently unknown.

As we’ve detailed in other blog articles, the Supreme Court is currently addressing stay requests related to injunctions of the OSHA mandate and healthcare mandate, which will certainly provide some amount of a window into how the Court may view federal vaccine mandates generally.

But, as the decisions to date have shown, each mandate entails different laws, rules, and considerations. Not all courts have agreed on all issues raised by the various challenges, even when they have reached the same conclusion about granting an injunction. A lot remains to be decided.

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