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INSIGHT

Q1 2022 Legal Review: The Supreme Court's Emergency Docket and the Future of Remote Workplace Mandates

Grand Park Law Group · March 31, 2022 · 10 min read



The U.S. Supreme Court's landmark ruling in NFIB v. OSHA curbed federal emergency occupational health mandates, cementing state-level authority in workplace safety regulation.

In the first quarter of 2022, the United States Supreme Court issued its landmark per curiam decision in *NFIB v. OSHA* (595 U.S. 109), staying the Occupational Safety and Health Administration's Emergency Temporary Standard (ETS) for large employers. The ruling marked a pivotal reassertion of the Major Questions Doctrine and catalyzed a permanent bifurcation between federal regulatory limits and California's robust state-level workplace safety standards under Cal/OSHA.

I. The Jurisprudential Clash in NFIB v. OSHA

The first quarter of 2022 began with an emergency showdown before the United States Supreme Court regarding administrative reach during public health crises. In *National Federation of Independent Business v. Department of Labor, OSHA*, 595 U.S. 109 (2022), the Court stayed OSHA's Emergency Temporary Standard, which had mandated that private employers with 100 or more employees require vaccination or weekly testing.

The Court's majority held that Section 6(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. § 655(c)) authorized the agency to regulate workplace-specific hazards, not ubiquitous public health dangers. The decision served as an early warning shot for administrative agencies,

signaling the Court's growing insistence that broad economic or social regulations require explicit, unmistakable statutory authorization from Congress under the emerging Major Questions Doctrine.

Conversely, in *Biden v. Missouri*, 595 U.S. 87 (2022), decided the same day, the Court upheld the Centers for Medicare & Medicaid Services (CMS) mandate for healthcare facilities receiving federal funds, concluding that Congress had explicitly conditioned healthcare funding on infection prevention safeguards.

II. The California Divergence and Cal/OSHA Enforcement

While federal emergency mandates were curtailed, California exercised its sovereign police powers to maintain comprehensive standards. Operating under California Labor Code §§ 6300 et seq., the California Occupational Safety and Health Standards Board maintained its own Emergency Temporary Standards (8 CCR § 3205), imposing direct testing, exclusion pay, and hazard assessment obligations on all California employers.

This dynamic underscored a fundamental principle for multi-state corporate employers: federal statutory ceilings do not restrict state-level regulatory floors when enacted pursuant to independent state police powers. Throughout 2022, California employers faced strict local compliance mandates from both Cal/OSHA and county public health departments, illustrating the necessity of localized compliance frameworks.

III. Strategic Takeaways & Hybrid Workplace Governance

As organizations formalized hybrid and remote work arrangements in early 2022, the legal focus shifted from emergency mandates to permanent labor compliance:

- **Labor Code § 2802 Expense Reimbursement:** With remote work transitioning from a temporary emergency measure to a permanent operational model, California employers faced class-action exposure for failing to reimburse reasonable portions of home internet, mobile devices, and utility costs under *Cochran v. Schwan's Home Service, Inc.* (2014) 228 Cal.App.4th 1137.
- **Wage and Hour Tracking:** Non-exempt remote employees required strict digital timekeeping protocols to prevent off-the-clock claims and missed meal and rest period penalties under Labor Code §§ 226.7 and 512.
- **Administrative Strategy:** Litigators challenging or defending agency enforcement actions must now assess statutory authorization through the lens of the Major Questions Doctrine at the federal level, while acknowledging California courts' continued deference to state regulatory agencies under *Yamaha Corp. of America v. State Bd. of Equalization* (1998) 19 Cal.4th 1.

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Publication Legal News & Opinion · March 31, 2022

Available online at grandparklawgroup.com/insights/articles/quarterly-2022-q1-osha-remote-workforce. This publication is provided for general information and is not legal advice.
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