

## Republican Appointed Federal Judges Using Misinformation and Conspiracy Theories To Rule Against Vaccination Rules

Republican-appointed federal judges have been extremely aggressive in moving to stay and enjoin necessary federal vaccination requirements, often [using questionable, and at times scientifically disproven points](#) to justify their rulings. The vaccine or testing requirements affecting large employers (OSHA), health care workers (CMS) and federal contractors are all essential to ending the COVID-19 pandemic and saving American lives.

[Medical](#) and [public health experts](#) agree that lawsuits seeking to overturn vaccination and testing requirements threaten the safety of the American people during the COVID-19 pandemic. Vaccination and testing continue to be safe and effective tools, essential to preventing transmission, illness, and death.

### What the Republican-Appointed Federal Judges Are Saying:

**Judge Kurt Engelhardt**, United States Court of Appeals for the Fifth Circuit, grossly minimizes the severity of the pandemic and OSHA's responsibility to protect workers in his ruling. COVID-19 is the [single largest occupational health crisis](#) since OSHA was created and the American Medical Association has determined "[workplace transmission has been a major factor in the spread of COVID-19.](#)" Yet, Judge Engelhardt doubts whether COVID even qualifies as a "grave danger," despite a death toll of more than 820,000 Americans, with [400,000](#) new infections each day. By this standard, nothing would qualify as a grave danger. In his [ruling against the OSHA test or vaccination rule](#), Judge Engelhardt states:

*"It remains unclear that COVID19—however tragic and devastating the pandemic has been—poses the kind of grave danger..."*

**Judge Terry Doughty**, United States District Court for the Western District of Louisiana, cited the work of Dr. Peter McCullough, a known conspiracy theorist whose stances are so extreme, his former employer was granted a [restraining order](#) because they did not want to be associated with his dangerous, anti-science ideology. In his [ruling against the CMS vaccination rule](#), Judge Doughty references the widely discredited work of McCullough, stating:

*"COVID-19 vaccines do not prevent transmission of the disease among the vaccinated or mixed vaccinated/unvaccinated populations, and that mandatory COVID-19 vaccines for hospitals do not increase safety for employees or hospital patients."*

**Judge Matthew Schelp**, United States District Court for the Eastern District of Missouri, was the [first to rule against the CMS vaccination rule](#), claiming there was not enough evidence to require the vaccination of health care workers. Despite CMS clearly laying out how vaccinations reduce

COVID-19 transmission, Judge Schelp misrepresented CMS's regulatory filing and accepted medical facts, stating:

*"The effectiveness of the vaccine to prevent disease transmission by those vaccinated is not currently known."*

**Judge Barbara Lagoa**, United States Court of Appeals for the Eleventh Circuit, speculated that uncertainty around new variants was an adequate justification for staying vaccine rules in a [dissent from a majority opinion](#) declining to block the CMS vaccination requirement, despite all studies showing that vaccinations provide substantial protection against severe disease and death. Judge Lagoa suggests:

*"There are 'major uncertainties' as to 'the future course of the pandemic, including but not limited to vaccine effectiveness in preventing "breakthrough" disease transmission from those vaccinated, the long-term effectiveness of vaccination..."*