

FEDERAL JUDGE ISSUES INJUNCTION, EFFECTIVELY DELAYS IMPLEMENTATION OF NEW FEDERAL OVERTIME RULE

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On Monday, November 22, a Federal District Judge in Texas issued an injunction against the Department of Labor's (DOL) new overtime rule. This injunction comes just 10 days before the new overtime rules were set to take effect. The overtime rule has been a hot button issue since 2014 when President Obama first directed the DOL to update the regulations, and particularly the "white collar exemption," under the Fair Labor Standards Act (FLSA).

Enacted in 1938, the FLSA put in place a federal minimum wage and overtime requirement. Under the FLSA, employees who work more than 40 hours per week are entitled to receive overtime wages. There are of course a variety of exemptions. For instance, under the "white collar exemption" employers do not have to pay overtime to "any employee employed in a bona fide executive, administrative, or professional capacity." 29 U.S.C. § 213(a)(1).

In 2004, the DOL implemented a "standard duties" test and set a minimum salary level for employers to determine which employees fall within "white collar exemption." The minimum salary level (currently set at \$23,660) is at the heart of the DOL's new overtime rule. The new rule, set to go into effect December 1, 2016, raises the minimum salary level to \$46,476.

In September, 21 states, the United States Chamber of Commerce and other business advocacy groups, filed suit challenging the final rule and seeking an injunction, which was granted on November 22, 2016 by Federal District Judge Amos L. Mazzant. In his decision, Judge Mazzant provided that by issuing the new rule, "the Department exceeds its delegated authority and ignores congress's intent by raising the minimum salary such that it supplants the duties test." He then questioned whether the DOL even has the authority to establish a minimum salary level. The injunction will halt enforcement of the rule until the Judge can hear the case in its entirety and issue a decision on the merits.

WHY DOES THIS MATTER?

While not a final decision, many believe the ruling is a strong indication that the DOL will need to take the rule back to the drawing board.

INSIGHTS FOR EMPLOYERS

Unfortunately, it is difficult to forecast what the future will bring for the rule both in court and in the face of a new administration. It could be months, if not years, before employers will know for sure what rule will be enforced. Until then, employers are advised to continue taking any steps necessary to implement the new rule.

Please contact a Gjording Fouser lawyer at 208.336.9777 if you would like any additional information about this topic or any other employment issues facing your company.