



## Labor & Employment ADVISORY ■

**NOVEMBER 23, 2016**

### Federal Court Enjoins Implementation of DOL Overtime Rule

On November 22, 2016, a federal district judge from the Eastern District of Texas issued an order enjoining the U.S. Department of Labor (DOL) from implementing and enforcing new regulations regarding the so-called “white collar” exemptions under the Fair Labor Standards Act (FLSA). The new regulations – which were set to go into effect on December 1, 2016 – would have, among other things, increased the minimum salary threshold for the white collar exemptions from \$455 per week (or \$23,660 annually) to \$913 per week (or \$47,476 annually). The court’s order blocks implementation of all aspects of the new regulations.

The court found that the plaintiffs – a group of 21 states challenging the regulations – had met all of the requirements for a preliminary injunction blocking the rule. Most importantly, the court found that the DOL had exceeded its congressional authority and ignored the intent of Congress by raising the minimum salary level such that it effectively supplanted the duties test that is at the core of the white collar exemptions.

The court’s order enjoining implementation and enforcement of the overtime rule is nationwide in scope and will remain in effect until further order from the court. While employers have been given a temporary reprieve from the new overtime rules, they should not completely abandon their compliance preparations. The court’s order is thorough, and the reasoning indicates that the judge is inclined to make the injunction permanent. Nevertheless, further proceedings will be required before the court may issue a permanent injunction, and the Secretary of Labor will likely seek to appeal the district court’s order up to the Fifth Circuit Court of Appeals. The upcoming transition from the Obama Administration to the Trump Administration may very well have a significant impact on these continued court proceedings, as well as the overall enforcement climate at the DOL.

Given the court’s injunction, employers need not make any changes to comply with the new regulations unless and until the injunction is lifted or reversed on appeal and the regulations actually go into effect. They should, however, be very thoughtful and considerate about their communications with their employees about how they will be paid starting in December. Employers who were planning to use the new regulations as a basis for making broader changes to their FLSA classifications should consult with counsel to assist with strategic decisions about the best course of action while this matter continues to unfold in the courts.

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