

Federal Judge Blocks Changes to Overtime Rules For Now

November 2016

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Overview

On November 22, 2016, a federal district court judge in Texas issued a nationwide preliminary injunction blocking the federal Department of Labor from implementing its final rule in respect of overtime compensation (the “Final Rule”). The Final Rule would have more than doubled the salary threshold necessary to meet the requirements of the various white collar overtime exemptions under the federal Fair Labor Standards Act, and therefore would have required employers either to increase salaries of any exempt employees whose current salaries are below the new thresholds or to make these currently-exempt employees eligible for overtime pay.

Background of Law and Case Summary

As covered in our previous Client Alert¹, on May 18, 2016, the Department of Labor published its Final Rule updating overtime regulations and more than doubling the salary threshold necessary to qualify for the white collar overtime exemptions under the Fair Labor Standards Act. The Final Rule, which was to take effect on December 1, 2016, would substantially increase the threshold for meeting the exemptions for executive, administrative, professional, computer, and highly-compensated employees (and also provides for automatic increases in such thresholds every three years).

The State of Nevada and twenty other states argued that the Department of Labor exceeded its authority by creating a “salary-level” test that supplanted the “duties” test. Furthermore, the plaintiffs argued that the Final Rule would force many state and local governments, as well as private businesses, to increase their employment costs substantially, which would have a “detrimental effect on government services that benefit the public.”

After analyzing the “unambiguous” and “plain language” of the white collar overtime exemptions, the Texas federal judge determined that the Final Rule is “contrary to the statutory text and Congress’s intent” and granted the injunction. The judge stated, among other things, that the injunction “preserves the status quo while the Court determines the [Department of Labor]’s authority to make the Final Rule as well as the Final Rule’s validity.”

Recommendation

The issuance of the injunction is not necessarily the end of the Final Rule or this litigation, as the Texas federal judge has yet to rule on a motion for summary judgment. In addition, the Department of Labor may file an interlocutory appeal of the injunction before a final judgment is made. Although the injunction has stopped the implementation of the Final Rule for now, employers should be prepared for the possibility that the Final Rule may go into effect during 2017, and will therefore need to be prepared to comply with the Final Rule if and when it becomes effective.

¹ <http://www.whitecase.com/publications/alert/department-labor-issues-final-regulations-trimming-flsa-overtime-exemption-white?s=overtime%20regulation>

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