

**Texas Federal Court grants nationwide preliminary injunction against new FLSA overtime regulations**

The United States District Court for the Eastern District of Texas, late on November 22, 2016, issued a preliminary injunction enjoining enforcement of the Department of Labor's new overtime regulations, including the upcoming changes to the white collar salary test. The court ruled in one of two cases filed in late September 2016.

Judge Mazzant concluded that the court was not required to give deference to the regulations because, in his view, the higher salary required to be exempt improperly supplants the duties portion of the statutory exemption test. The court held that the "significant increase to the salary level creates essentially a de facto salary-only test." Relying on DOL estimates that 4.2 million workers would become eligible for overtime under the new regulations without any change in their duties, the Court concluded that "Congress did not intend salary to categorically exclude an employee with EAP duties from the exemption." In the court's view, if such drastic changes are to be made to the exemption, Congress, not the DOL, should make them.

The Court held that a preliminary injunction applies nationwide even though the lawsuit was filed by a coalition of twenty-one states (including Ohio). Because the new rules apply in every state, a nationwide injunction protects employers and employees from being subject to different FLSA exemptions depending upon where they operate or work. A new Secretary of Labor appointed by President Elect Trump will make decisions about the regulations going forward. It is possible the DOL may abandon the current regulations in favor of changes more favorable to employers.

For further guidance on this subject, please contact a member of our Labor and Employment Law Practice Group at (419) 249-7100.

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