

What is the status of the Department of Labor's New Overtime Exemption Rule?

The U.S. Department of Labor's ("DOL") new overtime exemption rule was supposed to go into effect on December 1, 2016. On November 22, 2016, the U.S. District Court for the Eastern District of Texas issued a preliminary injunction preventing enforcement of the new rule, which made changes to the overtime pay regulations. The DOL promptly appealed this ruling to the Fifth Circuit Court of Appeals.

Yesterday, the Fifth Circuit Court of Appeals granted the DOL's motion to hear and decide the appeal on an expedited basis as follows:

- The DOL's brief is due on or before December 16, 2016.
- Amicus briefs in support of enforcing the DOL's regulations are due on or before December 23, 2016.
- The parties seeking to overturn the DOL's regulations must file their briefs on or before January 17, 2017.
- Amicus briefs in support of overturning the DOL's regulations must be filed on or before January 24, 2017.
- The DOL's reply brief is due on or before January 31, 2017.
- Oral arguments will be scheduled for the first available date after January 31, 2017.

It appears at the present time that the DOL remains committed to enforcing its new regulations and obtaining a decision from the Fifth Circuit Court of Appeals as soon as possible.

However, yesterday's announcement that the President-elect intends to pick Andrew Puzder, CEO of CKE Restaurants, for Secretary of Labor raises the likelihood that if and when Mr. Puzder is confirmed as Labor Secretary, the DOL's position on the overtime exemption rules will change significantly. Mr. Puzder is a well-known and outspoken critic of the DOL's currently-enjoined overtime regulations. It remains to be seen whether, and how quickly, the DOL will change its position in the appeal pending before the Fifth Circuit Court of Appeals.

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

Justice G. Johnson, Jr. johnson@marshall-melhorn.com 419.249.7115	David L. O'Connell oconnell@marshall-melhorn.com 419.249.7135
Ruth Meacham meacham@marshall-melhorn.com 419.249.7128	Roman Arce arce@marshall-melhorn.com 419.249.7111
Michael S. Scalzo Scalzo@marshall-melhorn.com 419.249.7129	Jennifer J. Dawson dawson@marshall-melhorn.com 419.249.7139
Margaret J. Lockhart lockhart@marshall-melhorn.com 419.249.7147	Meghan Anderson Roth roth@marshall-melhorn.com 419.249.7226
	Shawn A. Nelson nelson@marshall-melhorn.com 419.249.7164

About Marshall & Melhorn, LLC

Marshall & Melhorn, LLC is a full-service law firm. In addition to our Labor & Employment group, our firm has the following specialized practice areas:

Business	Intellectual Property
NonProfit	Litigation
Immigration	Medical Malpractice Defense
Tax	Estate Planning
Healthcare Law	Real Estate
Construction Law	Trusts and Estates
Creditor's Rights	Agricultural Law
School Law	Workers' Compensation

For more information about our firm, please visit:
www.marshall-melhorn.com

Disclaimer: This advisory may be reproduced, in whole or in part, with the prior permission of Marshall & Melhorn, LLC and acknowledgement of its source and copyright. This publication is intended to inform clients about legal matters of current interest. It is not intended as legal advice. Readers should not act upon the information contained in this advisory without first obtaining legal counsel.

© 2016 Marshall & Melhorn, LLC. *Labor and Employment Update* is intended for general informational purposes and is not intended to provide legal, tax, or other advice for a specific situation. Our Labor & Employment group would be pleased to provide you with further information or legal assistance as you require if you contact one of us directly. An attorney-client relationship is not created or continued by sending and receiving this publication.