

Texas Federal Court Issues Last-Minute Injunction, Blocks Changes to Overtime Rules

November 23, 2016

Just eight days before the Dec. 1, 2016, effective date, the United States District Court for the Eastern District of Texas entered a nationwide injunction prohibiting the U.S. Department of Labor from enforcing the recent regulatory changes issued pursuant to the Fair Labor Standards Act (FLSA). The DOL had previously published a proposed Notice of Rulemaking and, thereafter, a Final Rule which, as of Dec. 1, would have raised the minimum salary level for exempt employees from \$455 per week (\$23,660 annually) to \$913 per week (\$47,476 annually). In addition, the Final Rule would have established an automatic updating mechanism that would have adjusted the minimum salary level every three years; the first automatic increase was scheduled to occur on Jan. 1, 2020.

The Final Rule was immediately challenged in federal court in Texas by over 20 states as well as 50 business organizations. Given the impending deadline for implementation of the new overtime rules, Plaintiffs filed an emergency motion for a preliminary injunction; that motion was granted on Nov. 22. The court held that in issuing the Final Rule - which provided that those white collar employees who failed to meet the new salary test would be eligible for overtime "irrespective of their job duties and responsibilities" - the Department had exceeded its authority "by raising the minimum salary level such that it supplants the duties test." The court likewise enjoined the automatic updating mechanism. Plaintiffs challenged this provision because the salary level would be adjusted without a notice and comment period. The court agreed and held that the Department lacked the authority to implement such an automatic updating mechanism. Since the scope of the Final Rule was applicable to all states, the court likewise issued a nationwide injunction effective immediately.

Although employers are now relieved from the obligation to increase salaries to retain the exempt status for white collar employees, prudent employers should carefully review the duties being performed by those employees treated as exempt. Likewise, proactive employers who made changes should consult counsel to ensure that additional changes do not inadvertently give rise to claims by employees. We will continue to monitor this lawsuit and update you with any important developments.

Brian Schwartz
+1.313.496.7551
schwartz@millercanfield.com