

## District Court Invalidates DOL's White Collar Regulations

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September 6, 2017

The higher salary requirements under the Fair Labor Standards Act (FLSA) white collar exemptions that were set to take effect December 1, 2016, have been ruled invalid by a U.S. District Court in Texas. The same court preliminarily enjoined the implementation of these regulations on November 22, 2016. That decision is presently on appeal to the Fifth Circuit Court of Appeals. Although the U.S. Department of Labor (DOL) requested that the district court delay its final decision on the merits of the case until after the court of appeals rules on the preliminary injunction, the district court declined to do so and issued its final decision on August 31, 2017.

In rejecting the DOL's increased salary levels, the district court concluded that Congress defined the white collar exemptions (executive, administrative, professional, outside sales, and computer employee) with regard to duties without reference to a salary component. Thus, the district court held that the DOL does not have the authority to use a salary-level test that effectively eliminates the congressionally-mandated duties test in deciding who is exempt from overtime under the FLSA. As such, the district court concluded that the DOL had failed to carry out Congress' intent and the new regulations were unlawful because the DOL's new salary level would exclude many employees who were, in fact, performing exempt duties based solely on a salary basis which was not reasonably tied to inflation.

On September 5, the DOL announced it was withdrawing its appeal of the district court's preliminary injunction and left unclear as to whether the DOL will appeal this final district court decision. However, the DOL recently issued a **Request for Information** from employers and other interested groups regarding further revisions to the FLSA white collar regulations. This signals that the DOL is likely considering proposing new white collar regulations, instead of adopting the previously issued regulations rejected by the district court. Those regulations would not become effective without the required notice and comment period, pushing any new salary requirement well-into 2018 or beyond.

We will continue to update you regarding this issue. If you have any questions related to this or any other employment law matter, please contact your Miller Canfield attorneys.

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