

November 23, 2016

Judge Blocks Department of Labor's New Overtime Rule

In an important development for employers nationwide, on Tuesday, November 22, 2016, a U.S. district court in Texas issued a preliminary injunction blocking implementation of the Department of Labor's (DOL) new salary test for determining eligibility for overtime under the Fair Labor Standards Act (FLSA).

The rule, which had been slated to take effect on December 1, 2016, would more than double the minimum annual salary required for the "white collar exemptions" from \$23,660 to \$47,476 and create an index for future increases. In response to the district court decision, the DOL said that they "are currently considering all of our legal options."

As a result of the preliminary injunction, **the DOL rule will not take effect on December 1, and its future is in doubt.** What does this mean for California employers? The preliminary injunction does not impact the California minimum exempt salary, so employers here must continue to comply with the California salary requirement, which is higher than the existing FLSA minimum salary. Note that as of January 1, 2017, the California minimum salary will increase from the current \$41,600 to \$43,680 annually. California's duties test for exempt employees will remain unchanged.

Employers that have already increased salaries in anticipation of the new federal rule should consider maintaining those increases given that the validity of the new rule is still uncertain, not to mention employee morale at the prospect of a salary cut. Employers that have not already increased salaries should continue to ensure that their exempt employee salaries meet the California standard while the FLSA rules are being sorted out.

Miller Law Group exclusively represents business in all aspects of California employment law, specializing in litigation, wage and hour class actions, trials, appeals, compliance advice and counseling. If you have questions about these developments or other workplace obligations, please contact us at (415) 464-4300.

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