

## States and Business Groups Seek Expedited Rulings on Overtime Rule Challenges

On October 12, the attorneys general from 21 states asked a Texas federal court to issue a nationwide preliminary injunction blocking the DOL's final overtime rule from taking effect as planned. Two days later, business groups asked the same court for an expedited ruling on its legal challenge to the rule. While these developments bear close watching, there is no guarantee of success. With the rule scheduled to take effect on December 1, employers should continue preparing for compliance pending further proceedings.

### Background

The Fair Labor Standards Act (FLSA) establishes federal minimum wage and overtime pay requirements for public and private sector employers. Regulations enforced by the DOL's Wage and Hour Division (WHD) provide exemptions from those requirements for salaried "executive, administrative, and professional" (EAP) employees (so-called "white-collar" employees) who satisfy certain minimum earnings and job duties tests. On May 23, the DOL issued new overtime rules that would expand overtime eligibility to millions of workers on December 1 by more than doubling the minimum salary threshold for an EAP exemption, with automatic adjustments to the threshold every three years thereafter. (See our [May 18, 2016 FYI Alert](#).)



On September 20, the attorneys general from 21 states filed suit in the Eastern District of Texas to block the new rule, saying the DOL overstepped its constitutional authority and infringed on state sovereignty by promulgating a rule that would force service cutbacks or layoffs by state and local governments. A broad coalition of more than more than 55 business groups filed a separate legal challenge on the same day in the same district, alleging the rule's new salary test and automatic indexing provisions exceed the DOL's statutory authority. (See our [September 21, 2016 FYI Alert](#).) Both cases were assigned to Judge Amos Mazzant and are currently pending.

## Emergency Relief Sought

On October 12, the states filed an [emergency motion](#) asking Judge Mazzant to issue a nationwide preliminary injunction blocking the DOL's final overtime rule from taking effect on December 1. The emergency motion says the states would be irreparably harmed and their budgets irreversibly damaged if the rule becomes effective prior to a full hearing on the merits and any review by higher courts. On October 17, the court set a hearing on the motion for November 16.

Two days after the states filed their emergency motion, the business coalition moved for expedited summary judgment on its lawsuit, asking the same federal judge to vacate the overtime rule immediately. Although the business groups asked the court to decide the motion on the same timetable as the states' emergency motion, a hearing date has not yet been set.

## In Closing

While these legal maneuvers bear close watching, there is no guarantee that they will be successful. With a compliance date of December 1 looming, employers should continue preparing for the new rule in the event it takes effect as planned.

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