

FYI[®] Alert

For Your Information[®]

Volume 39 | Issue 150 | December 2, 2016

DOL Appeals Overtime Ruling

On November 22, a Texas judge temporarily blocked the DOL's new rule that would have more than doubled the minimum salary level for a white-collar exemption from federal overtime pay requirements. Yesterday, the agency filed a notice of appeal from the court order that prevented the rule from taking effect on December 1. Employers will want to monitor developments closely.

Background

On May 23, the DOL issued a new overtime rule that would have more than doubled the minimum salary level for executive, administrative and professional exemptions from the FLSA's overtime pay requirements on December 1. On September 20, the attorneys general from 21 states and a more than 55-member business coalition separately filed legal challenges to the new rule in the Eastern District of Texas. (See our *FYI Alert* from [September 21, 2016](#).)

Both the states and the business coalition sought expedited relief. The states sought an injunction blocking the DOL's final overtime rule from taking effect on December 1, while the business organizations moved for summary judgment. (See our [October 20, 2016](#) *For Your Information*.) In a much anticipated [ruling](#) on November 22, US District Judge Amos L. Mazzant concluded that the DOL "exceed[ed] its delegated authority and ignore[d] Congress's intent by raising the minimum salary level such that it supplants the duties test," and granted a nationwide injunction against the new overtime rule. (See our [November 23, 2016](#) *FYI Alert*.)

Comment. In the past two months, Texas federal judges have also temporarily blocked key provisions of the DOL's "blacklisting" rule and permanently enjoined the agency's new "persuader" rule. (See issues of *FYI Alert* from [October 27, 2016](#) and [November 17, 2016](#).)

DOL Files Appeal

On December 1, the Department of Justice on behalf of the DOL filed a notice of appeal to the US Court of Appeals for the 5th Circuit from Judge Mazzant's preliminary injunction order. The 5th Circuit's timeline for the appeal has not been set, and it remains to be seen whether the government will seek a stay of the preliminary injunction during the appeal proceedings. In the meantime, the injunction remains in effect and the expanded overtime rule remains on hold.



In Closing

While not entirely unexpected, the filing of an appeal challenging Judge Mazzant's earlier ruling does not change the current status of the overtime rule. Rather, the preliminary injunction remains in place pending review or further court order. Employers will want to closely monitor developments.

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