

Court Issues Nationwide Injunction against New FLSA Regulations

On November 22, 2016, the U.S. District Court in the Eastern District of Texas issued a nationwide injunction against the implementation of the U.S. Department of Labor's ("DOL") new Fair Labor Standards Act ("FLSA") regulations which were to go into effect on December 1, 2016.

Under the FLSA, employers are required to pay overtime to eligible employees who work more than forty hours in a week. However, employees who perform executive, administrative and professional duties are exempted from these overtime requirements if they meet a minimum salary. The new FLSA regulations increased the minimum salary level for exempt employees from \$455 per week (or \$23,660 annually) to \$921 per week (or \$47,892 annually).

The Court found that the DOL exceeded its rule-making authority and ignored Congress' intent in the FLSA by raising the minimum salary level such that it supplants the duties test, essentially creating a salary-only test. Therefore, the Court enjoined the DOL from implementing the new regulations related to the salary increase.

On December 1, 2016, the DOL filed a notice of appeal to the U.S. 5th Circuit Court of Appeals. The DOL's opposed motion to expedite the appeal was granted by the 5th Circuit, with a briefing schedule ordered to conclude on or before January 31, 2017. The district court, however, denied the DOL's request to stay the district court proceedings pending the 5th Circuit appeal.

Until the 5th Circuit rules on the appeal, the pre-existing rules remain in effect and employers are not obligated to implement the new salary increase rules. Employers who have not yet implemented the new salary increase rules can choose to take a "wait and see approach" pending resolution of the appeal. However, employers should pay close attention to the appeal and be ready to implement the new rules if the injunction is overturned.