

FLSA Overtime Rule Update

On August 31, 2017, U.S. District Court Judge Amos Mazzant officially concluded that the Fair Labor Standard Act's new overtime regulation is invalid. This decision stemmed from a lawsuit brought forth in 2016 which resulted in a nationwide injunction against the implementation of the U.S. Department of Labor ("DOL") new exemption regulation, which was intended to take effect on December 1, 2016.

In response, on October 30, 2017, the Department of Justice, on behalf of the DOL, appealed the U.S. District Court's decision. The DOL also intends to ask the Fifth Circuit Court of Appeals to "hold" the appeal on the injunction (which is currently pending) indefinitely while they continue their rulemaking to determine what the new salary level threshold should be. The DOL intends to issue a proposed rule sometime in 2018. There has been speculation that the new salary threshold will be in the \$30,000-\$35,000 range.

For employers, nothing has changed. This latest development does not impact the course of action employers already have taken in response to last year's injunction. Employers should continue to update their job descriptions to ensure that their jobs meet one or more of the FLSA's "white collar" duties test. Please contact Madigan, Dahl & Harlan if you have any further questions about how this may impact your business.