



## TEXAS JUDGE STRIKES DOWN OBAMA-ERA OVERTIME RULE

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On Thursday, August 31, 2017, Judge Amos Mazzant struck down the Obama administration's overtime rule that would have extended mandatory overtime pay to more than four million U.S. workers. Specifically, the rule would have doubled the threshold for exempting "executive, administrative, and professional" workers from overtime pay. This is the latest blow to the rule, which has been battered since shortly before it was scheduled to go into effect.

According to Judge Mazzant, "[t]he department has exceeded its authority and gone too far with the final rule ... " The Judge went on to state, "[t]he department creates a final rule that makes overtime status depend predominately on a minimum salary level, thereby supplanting an analysis of an employee's job duties. Because the final rule would exclude so many employees who perform exempt duties, the department fails to carry out Congress's unambiguous intent."

Judge Mazzant is the same judge who blocked the rule late last year, before it was set to go into effect in December. The Department of Labor (DOL) subsequently appealed the preliminary injunction only a few short weeks before President Trump took office, which appeal is currently being considered by the Fifth Circuit Court of Appeals. While the DOL's reply brief in the appeal announced that the DOL would not seek to reinstate the salary level proposed by the current version of the rule, the DOL did request that the Fifth Circuit overrule Judge Mazzant's finding that the DOL lacks the authority to set any salary test.

Although the current version of the rule may never take effect, Labor Secretary Alexander Acosta and the DOL have indicated that a revised rule is being considered. In July, the DOL issued a request for information seeking public feedback that will aid the DOL in formulating a revised rule. The 60-day public comment period will end in late September.

For additional information on Judge Mazzant's decision and assistance reviewing your overtime policies, please contact any of the listed Roetzel attorneys.

### **Stephanie Olivera Mittica**

Shareholder

330.849.6671 | [smittica@ralaw.com](mailto:smittica@ralaw.com)

