

EMPLOYMENT SERVICES ALERT

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Breaking News: Texas Federal Court Judge Issues Nationwide Injunction Against DOL, Bringing New Overtime Regulations to Abrupt Halt

By ***Karen D. Adinolfi, Partner***

In a surprise move, Judge Amos Mazzant III of the United States District Court for the Eastern District of Texas has issued a nationwide injunction against implementation of the new Fair Labor Standards Act (“FLSA”) overtime regulations, which were scheduled to go into effect on December 1, 2016. The injunction came at the request of 21 states and over 50 business groups, including the U.S. Chamber of Commerce, which in two separate lawsuits had sued the Department of Labor (“DOL”) in September in response to the issuance of the new regulations.

Judge Mazzant stated in his order that he is not required to give any deference to the new regulations because the new, higher salary level improperly swallows the rest of the exemption test and makes salary alone the controlling factor on the issue of exemption qualification. Put another way, under the new rules, even employees with exempt duties are excluded from the exemption simply by virtue of a salary under the new threshold.

As Judge Mazzant stated:

“[b]ut this significant increase to the salary level creates essentially a de facto salary-only test. For instance, the Department estimates 4.2 million workers currently ineligible for overtime, and who fall below the minimum salary level, will automatically become eligible under the Final Rule without a change to their duties.... Congress did not intend salary to categorically exclude an employee with EAP [executive, administrative, or professional] duties from the exemption.”

So what does this mean for employers? Simply put, until and unless the Fifth Circuit Court of Appeals reverses Judge Mazzant’s decision (and the DOL will most likely appeal), the new rule will not be implemented on December 1, 2016, leaving employers to maintain the current tests for exemptions. President-Elect Trump will likely not resurrect the now-blocked rule, and while it remains to be seen what, if any, action a Trump-directed DOL will take on revising the FLSA regulations, any action will almost certainly be less drastic than the rule employers were faced with, that is, until today.

If you have any questions about this topic, please contact one of the listed Roetzel attorneys.

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