

KD Employment Law Alert: Federal Judge Halts Implementation of Regulations Set to Increase Overtime Eligibility

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Yesterday, a federal judge in Texas issued a nationwide injunction halting the implementation of a Department of Labor regulation which would have entitled millions of employees to overtime pay by raising the weekly salary cutoff for an exemption to employees earning more than \$913 per week. The decision, issued just over a week before the regulation was set to go into effect, comes as a shock to many employers who have spent months preparing for the new requirements by evaluating employees' exempt status and, in many cases, even adjusting workers' pay in anticipation of the new test.

The regulation, which was adopted in May and set to go into effect on December 1, 2016, was challenged in two complaints, one brought by a coalition of twenty-one States and the other initiated by more than 50 business groups. U.S. District Judge Amos L. Mazzant ruled that these groups demonstrated a substantial likelihood of success in showing that the government had overstepped its authority by raising the salary cap and setting automatic increases by relying on the salary increase to "supplant[] the duties test," which requires a factual analysis of an employee's duties in order to assess exempt status.

The Court rationalized that if the new overtime rule is invalid, the injunction will prevent any harm to the public from its enforcement, whereas if the rule is subsequently determined to be valid, the injunction would merely delay its implementation somewhat. Finally, the Court made the injunction applicable nationwide because the Department of Labor regulations apply nationwide. Thus, the nationwide injunction protects employees and employers from being subject to different exemptions based on location. It should be noted, however, that the overtime exemption already varies by geographic location as many states have their own requirements in place, including, in some instances, significantly higher salary thresholds than federal law currently requires.

The current salary test (set at \$455 per week under federal law) will remain in effect unless and until the Court determines that the regulation is enforceable. The situation remains fluid, so any employers who have questions about how this injunction may impact their current practices should contact the attorneys in KD's Employment Law practice.