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Katheryn Bradley
bradleyk@lanepowell.com

Paul M. Ostroff
ostroffp@lanepowell.com

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New DOL “White Collar” Overtime Rule Blocked by Federal Court

Labor and Employment Legal Update

On November 22, a federal judge in Texas issued a nationwide preliminary injunction against the Department of Labor’s (DOL) new overtime rule. The rule was scheduled to take effect on December 1. The court’s order prohibits the DOL from implementing or enforcing the rule. As a consequence of the Order, the minimum salary threshold for satisfying the “white collar” exemption will not increase from \$23,660 to \$47,476 per year on December 1, as originally planned.

The court’s order was based on its determination that the DOL exceeded its delegated authority by increasing the minimum salary level without congressional approval. The nationwide injunction was a surprising turn of events. Although the injunction is only a temporary measure, the court’s determination that there was a strong probability that the plaintiffs will prevail on the merits suggests that a permanent injunction might be forthcoming in the future. This issue could end up on appeal before the Fifth Circuit, which could take many months or even years to resolve.

Possible action by the new Congress or Administration. The injunction may provide an opportunity for intervention by the new Congress or president. During the campaign, President-elect Trump endorsed the concept of an exemption for smaller businesses. One pending bill would phase in the increases over a period of years. Other members of Congress have suggested an increase in the current threshold, but in a lesser amount than the new rule.

What this means for all employers. The minimum salary threshold for satisfying the “white collar” exemption under the Fair Labor Standards Act (FLSA) will not increase from \$23,660 to \$47,476 per year on December 1. Accordingly, employees who meet the applicable duties test for a white collar (executive, administrative or professional) exemption need not be paid overtime compensation when they work more than forty hours in a workweek, provided they are paid a weekly salary of at least \$455. The Order also prevents implementation of the salary increase to \$134,004 for employees who otherwise qualify under the “highly compensated employee” white collar exemption. If the preliminary injunction is later lifted or modified, or new rule or legislation enacted, employers will have to reassess their obligations at that time.

The Order only effects an employer’s obligations under the FLSA. Under any circumstances, employers must still comply with their obligations under state and local wage and hour laws.

This nationwide injunction will affect the wages of millions of workers on the eve of the implementation date. Employers are advised to immediately speak with legal counsel about the practical and legal implications.