Texas Federal Judge Blocks DOL Final Rule on Increased FLSA Exemption Salary Thresholds

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As our prior legal alerts (from April 2024 and from July 2024) detailed, pursuant to a Final Rule from the Wage and Hour Division of the Department of Labor ("DOL"), the salary thresholds for the Executive, Administrative, and Professional ("EAP") and Highly Compensated Employee ("HCE") exemptions from overtime pay requirements under the Fair Labor Standards Act ("FLSA") increased on July 1, 2024 and were set to jump again on January 1, 2025. An escalator provision also provided for automatic increases every three years going forward.

On Friday, November 15, 2024, however, Judge Sean Jordan of the Eastern District of Texas issued a nationwide injunction blocking the Final Rule. The ruling not only blocks the January 1 increase to $58,656 for the EAP exemptions (and $151,164 for the HCE exemption) but also struck down the prior July 1 increase to $43,888 for the EAP exemptions (and $132,964 for the HCE exemption), as well as the escalatory provision. The salary threshold therefore drops back to the prior $35,568 for the EAP exemptions (and $107,432 for the HCE exemption). Of course, from a practical standpoint, employers are unlikely to claw back raises they previously gave to comply with the first step of the Final Rule. Additionally, some states, including Alaska, California, Colorado, Maine, New York, and Washington, impose their own higher thresholds.

Judge Jordan reasoned that the amount of the salary increases would result in a *de facto* "salary only" test, making the required "duties" tests for the exemptions meaningless. He further held that automatic future increases violated the Administrative Procedure Act. In theory, the DOL could appeal this ruling, but that process would take time that the Biden administration does not have. The Trump administration likely would drop any appeal, as it did when another Texas federal judge issued an injunction in December of 2016 blocking the Obama DOL's Final Rule.

Employers now do not need to implement plans to increase salaries or reclassify employees based on the January 1 increases. Still, employers, in consultation with their legal counsel, could use the legal developments as an opportunity to review their exempt positions and other wage and hour policies, and make any needed changes, considering legal, business, and employee relations concerns.

We Can Help

Please feel free to contact Brad Harvey or another member of our Labor and Employment Practice Group should you have any questions.