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BREAKING: NEW DOL OVERTIME RULE WILL NOT GO INTO EFFECT DECEMBER 1

Yesterday, a federal judge in Texas issued a nationwide injunction (full decision here) blocking the U.S. Department of Labor (DOL) from implementing its updated overtime regulations, which would have required, among other things, that exempt employees be paid a minimum salary of $913 per week. The judge ruled that the twenty-one states and certain business groups that had sued to block the implementation of the regulations were likely to be successful on the merits of their case and that there would be harm to the states and businesses if the rule was implemented on December 1.

The basis for the ruling is that the new salary basis test is a *de facto* salary test that no longer takes an employee's job duties into consideration. The Court found that the type of work actually performed by the employee is what Congress intended the exemption to be based on, and that the updated DOL rule supplanted the duties test with a minimum salary threshold. The Court found that this was outside the intent of Congress and, therefore, outside of the DOL's statutory authority. Additionally, the judge ruled that the DOL did not have statutory authority to implement the automatic increase provision of the rules, which would have automatically readjusted the minimum weekly salary level every three years.

Although this may not be the end of litigation over this matter, the DOL's new overtime rules will not take effect on December 1, 2016, and therefore, employers do not need to implement any changes. For those employers who have already implemented changes in preparation for the updated overtime rules, they have the option to keep those changes in place or reverse those changes and wait to see how this matter ultimately resolves. However, employers must keep in mind that, although the minimum salary level will remain, for now, at $455 per week, to be considered exempt, employees must still meet the job duties tests.