White Collar Overtime Regulations Temporarily Blocked

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On November 22, 2016, a Texas federal court issued a preliminary injunction that temporarily blocks the U.S. Department of Labor (DOL) from implementing and enforcing its revised white collar overtime regulations nationwide. The regulations were to take effect on December 1, 2016. For background on the DOL's Final Rule, see our alert, DOL Issues Final Rule Amending Overtime Exemptions Under FLSA.

The decision was issued in a consolidated set of cases brought by 21 states and several business organizations. The cases challenge the changes to 29 C.F.R. Part 541, which defines the standards for evaluating whether employees are exempt executive, administrative, and/or professional employees. Under the current regulations, the minimum salary requirement for these exemptions is $455 per week. Under the revised regulations, the minimum salary would more than double to $913 per week. The Texas court found that the plaintiffs' challenge to the final regulations has a substantial likelihood of success and that the plaintiffs have shown that they would be irreparably harmed if the rule was not enjoined.

The ruling does not provide any certainty for the future. Although the injunction halts the revised regulations from becoming effective on December 1, it is a *preliminary* injunction and it does not necessarily mean that the regulations will not go into effect in the future, either in their current form or in some revised form. Notably, any appeal of the ruling will fall on the new Trump administration, which may ultimately decide not to enforce the regulations promulgated under a prior administration.

Employers that have not yet made changes should continue their planning process to be in compliance with the revised regulations if and when they do become effective. Employers that have already made changes should determine whether to suspend, alter, or revise those changes pending any subsequent legal developments. There is a risk that if the regulations are later upheld, they may be enforced retroactively. In such a case, employers will have difficulty defending against claims if they do not have accurate records of the hours worked by employees.

For questions or guidance on this recent development or other employment law matters, please contact George Morrison (morrisong@whiteandwilliams.com; 610.782.4911) or any member of our Labor and Employment Group.