

## Client Alert

### **Texas District Court Invalidates Obama Overtime Pay Rule**

September 6, 2017 – The United States District Court for the Eastern District of Texas recently struck down a divisive U.S. Department of Labor (“DOL”) rule passed by the Obama administration that vastly expanded overtime protections to millions of white collar workers. On August 31, 2017, Judge Amos Mazzant granted summary judgment to dozens of states and business groups that challenged the rule, determining that the DOL improperly raised the minimum salary threshold required to qualify for the overtime provisions of the Fair Labor Standards Act (“FLSA”) to \$47,000 per year. Under the current federal regulations, employees need only earn \$23,660 annually in salary to qualify as exempt under the FLSA, assuming other tests laid out in federal regulations are met for exempt status, including those for executive, professional and administrative categories. Some states, including New York, already have a higher salary thresholds in place (\$37,830 or higher annually through December 31, 2017, depending on the location and size of the employer).

Judge Mazzant stated that the significant increase in the FLSA’s “salary level test” would essentially eliminate the law’s corresponding “duties test,” which exempts an employee from overtime pay if he or she performs *bona fide* executive, administrative, or professional capacity duties. More particularly, he explained, doubling the previous minimum salary threshold will render moot any consideration of an employee’s job duties and qualify entire categories of previously exempt employees for overtime eligibility based upon salary alone. As such, it was held that the DOL’s rule was not entitled to the deference generally given to government agencies’ interpretations of potentially ambiguous statutes under the U.S. Supreme Court’s 1984 ruling in *Chevron USA Inc. v. Natural Resources Defense Council Inc.* (holding that where a statute is silent or ambiguous on a specific issue, the agency’s interpretation will be upheld so long as it is based upon a permissible construction of the statute). “This is not what Congress intended,” the Judge concluded. The Court also determined that a provision in the rule that would have automatically adjusted the minimum salary level every three years violated the rule set forth in *Chevron*, as an impermissible interpretation of the FLSA. The Court made it clear, however, that it was not making any broad-based determination regarding the legality of the salary level test or the DOL’s authority to implement such a test.

Judge Mazzant had previously instituted a [nationwide injunction](#) preventing the implementation of this rule in November 2016. The DOL appealed this injunction to the Fifth Circuit, but has now indicated that it plans to drop the appeal as moot given the recent decision.

DOL Secretary Alex Acosta, who was appointed by President Trump, has stated on several occasions that the agency will seek to revise that threshold at a point somewhere between the previous level and the level set by the Obama administration. The DOL has thus begun the process of seeking public feedback on potential revisions of the Obama overtime provisions.

If you have any questions on the decision, or any other employment-related issue, please contact:

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