

## Update on DOL White Collar Overtime Exemption

As we last reported, on November 22, 2016, the U.S. District Court for the Eastern District of Texas issued a nationwide preliminary injunction delaying implementation of the new Department of Labor ("DOL") Final Rule, which would have increased the minimum salary requirements for "white collar" exempt workers under the Fair Labor Standards Act (FLSA) from the current rate of at least \$455 per week (\$23,660 annually) to at least \$913 per week (\$47,476 annually).



On August 31, 2017, the U.S. District Court made its preliminary injunction final by ruling that the DOL's new minimum salary level (\$47,476) exceeded the Department's authority and is invalid.

On October 30, 2017, the Department of Justice, on behalf of the Department of Labor, filed a notice to appeal this decision to the U.S. Court of Appeals for the Fifth Circuit. On November 6, 2017, the Fifth Circuit granted the Department of Justice's motion to hold the appeal in abeyance while the Department of Labor undertakes further rulemaking to determine new salary levels.

The Department of Labor will now consider a smaller increase to the salary threshold for white collar workers to come under the white collar exemption. In the meantime, **the old minimum salary requirement (\$23,660) continues to be in effect.** Employers should also recall that, in addition to meeting salary requirements, an employee must also primarily be performing executive, administrative or professional duties to come under the exemption.

Employers should continue to follow developments in this area, and comply with the current requirements of the FLSA.

Please contact Employment & Labor Attorney [David A. Lawrence](#) or [Stacey L. DiDomenico](#) for assistance navigating the FLSA overtime requirements, or other questions relating to employment law.