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District Court Grants Injunction of 2024 Overtime Rule Limited to State of Texas as Employer

Law and the Workplace on **June 30, 2024**

On Friday, June 24, 2024, the business day before the Biden Department of Labor's new overtime rule was scheduled to take effect, a federal district judge granted the State of Texas's motion for a preliminary injunction to postpone the effective date of the rule, concluding the rule "is likely unlawful." Notably, the decision—in *State of Texas v. U.S. Dep't of Labor*, No. 4:24-CV-499-SDJ (E.D. Tex.)—arises from the same division of the same federal district court that invalidated the Obama administration's new overtime rule in 2016. Unlike that 2016 decision, however, Friday's injunction is not national in scope—it is limited to the State of Texas as employer.

In reviewing the State's likelihood of success in challenging the rule, the court cited to the Supreme Court's decision in *Loper Bright Enters. v. Raimondo*, decided earlier that day, which overruled *Chevron USA Inc. v. Natural Resources Defense Council, Inc.* and held that "[c]ourts must exercise their independent judgment in deciding whether an agency has acted within its statutory authority."

The 2024 overtime rule (the "2024 Rule") would have, among other things, increased the minimum salary for exemption as executive, administrative, or professional ("EAP") employee from $684 per week ($35,568 annualized) to $844 per week ($43,888 annualized) effective July 1, 2024 and to $1,128 per week ($58,656 annualized) effective January 1, 2025. The question for the court was whether the text of the EAP exemptions—codified in the FLSA regulations at 29 C.F.R. Part 541 and which permits the Secretary of Labor to "define" and "delimit" the terms "executive," "administrative," and "professional"—authorizes the Secretary to increase the minimum salary level to that degree. The court noted that "[t]he plain meaning of these terms makes clear that the proper inquiry into whether someone works in an executive, administrative, or professional capacity must turn on that person's function and duties"—and *not* their compensation. As such, "any rule implementing the EAP Exemption—including the 2024 Rule—must likewise center on duties."

The court concluded that "Texas is likely to succeed on its claim that the 2024 Rule's changes to the minimum salary level contravene the plain text of the EAP Exemption and that the 2024 Rule therefore impermissibly exceeds the Department's authority to define and delimit the EAP Exemption." Hearkening back to its decision to invalidate the 2016 overtime rule—and including a welcome reference to Yogi Berra—the court noted that the degree of the increases in minimum salary for exemption effectively strip the duties test of meaning:

> As the New York Yankees' (inarguably) best catcher is reported to have said, this is "déjà vu all over again." … In its 2024 Rule, the Department once again seeks to implement sweeping changes to the EAP Exemption's regulatory framework, designed on their face to effectively displace the FLSA's duties test with a predominant, if not exclusive, salary-level test.… Thus, when the 2024 Rule goes into effect, the Department [of Labor] calculates that one million exempt employees will wake up on July 1 non-exempt—*i.e.*, entitled to overtime pay.… On January 1, the same thing will happen to another three million employees.… Then, on July 1, 2027, and every three years thereafter, millions more employees will have their statuses changed. Nothing about these employees' jobs will have changed.… Rather, the only changes determining their statuses and making them non-exempt will be increases to the minimum salary level in the Acting Secretary's definition and delimitation of the EAP Exemption.

As to the geographic limits of the injunction, the court acknowledged that the law neither requires nor prohibits relief that is nationwide in scope; that the only party seeking relief here is the State of Texas; that Texas has introduced evidence of its own injuries as an employer but has not otherwise offered any evidence of injuries to other entities or individuals; and therefore that under the circumstances, a preliminary injunction focused on Texas comports with the procedural posture of the case and the record before the court. As such, if a nationwide injunction of the 2024 Rule is to issue, it will be in another lawsuit. One such lawsuit seeking a nationwide injunction is *Flint Avenue LLC v. U.S. Dep't of Labor*, No. 5:24-CV-130-C (N.D. Tex.). We are keeping our eyes open for developments in that case, in which briefing on the plaintiff's motion for a preliminary injunction appears to be closed.

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