

The Legal Strategist

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TEXAS ESOTERIC FACTS

I often offer updates to previously published *Legal Strategist* topics. However, it is a bit unusual to offer an update of a topic that was just presented. With the breaking news of a judge blocking the Department of Labor's final rule updating the overtime regulations, I wanted to make sure my readers are up to date on the current situation. This latest test to the final rule is a win for small business!

The Feature Topic is a cursory review. If you would like more information on this, or any other topic previously covered in our newsletter, which can be viewed on [The Legal Strategist](#) tab of my web site, please contact my office at 713.526.1883.

Scott Barrett

FEATURE TOPIC: UPDATE: JUDGE BLOCKS RULE ON OVERTIME PAY

As previously published in the 2nd Quarter 2016 Legal Strategist (for full article, click [here](#)) "On May 18, 2016, President Obama and Secretary Perez announced the publication of the Department of Labor's final rule updating the overtime regulations, which will automatically extend overtime pay protections to over 4 million workers within the first year of implementation." Thankfully for most all small business owners, sanity has prevailed and this potentially disastrous rule has, at least temporarily, been blocked.

The decision is a victory for the 21 states, and dozens of business groups who complained that the new rule would increase government costs by hundreds of millions of dollars, and that the rule would cost private employers millions of dollars. The rule, championed by Obama's Department of Labor, would raise the salary threshold for workers to qualify as exempt from overtime pay requirements from \$455 to \$913 per week (or from \$23,660 to \$47,476 per year), and increase the current minimum salary requirements for employees exempt from overtime pay under the "highly-compensated" exemption from \$100,000 to \$134,004 per year.

In September, two lawsuits were filed in the Eastern District of Texas challenging the Labor Department's authority to increase the salary threshold more than two-fold. One of the lawsuits was filed by 21 states, while the other was filed by business groups, including the U.S. Chamber of Commerce. The lawsuits were filed in the Eastern District of Texas because of the court's reputation for being plaintiff-friendly and for its speedy decisions. The two suits were consolidated in October, at which point the plaintiffs asked the court to consider a motion to issue a preliminary injunction which would block the new regulation from going into effect Dec. 1. The court agreed to hear the motion, which Mazzant heard last week.

The Department of Justice asked Mazzant to at least let the new rule take effect in the 29 states that didn't sue to update salary triggers that haven't changed since 2004. The federal government argued that rising wages and "broad workplace definitions" of what constitutes white-collar jobs have "left employees who should not be exempt without overtime protection." Mazzant rejected the federal government's request to limit the injunction to the states that filed the lawsuit. The Labor Department failed to consider regional salary and economic differences in setting the nationwide base pay rate, opponents to the new rule had argued. The injunction means that the rule will not go in affect on Dec. 1, as previously planned.

So what does this mean for you as a small business owner? For now, the current FLSA Overtime Rules are still in place and will continue until the Federal Government either exhausts its appeals or the new Trump Administration's Justice Department drops the case entirely. So for now, it is business as usual pertaining to the eligibility of overtime pay.

If you would like more information on how rules and regulations will affect your business, please contact [Scott Barrett](#) to set up a consultation.