masuda funai

News & Types: Client Advisories

BREAKING NEWS – Court Grants Nationwide Injunction Enjoining Implementation and Enforcement of Final Salary Level Rule

11/23/2016

Practices: Employment, Labor & Benefits

EXECUTIVE SUMMARY

In a potentially disruptive decision, Judge Amos L. Mazzant issued a preliminary injunction that prevents the Department of Labor ("DOL") from implementing or enforcing its Final Salary-Level Rule ("Final Rule"). As a result, companies no longer have to implement the Final Rule. Companies have been planning, announcing and/or implementing the new Final Rule for months and now must decide what action to take. Every situation is different and will require an analysis of the law and the impact on employee relations. Some companies may not have planned, announced or implemented the new Final Rule. These companies need to take no action. However, most companies have already announced and/or implemented the Final Rule. They have already told employees that their salaries and compensation will increase and that they are considered exempt employees. These companies may be reluctant to change course, take away the salary increases and re-reclassify the employees from exempt to non-exempt. Reducing salaries has implications on employee morale and building good relationships between management and employees. In addition, employees may believe that they were always non-exempt, even if the company had previously labeled them as exempt. Therefore, reacting to the judge's decision will require a case-by-case analysis.

BACKGROUND

Late yesterday afternoon, Judge Amos L. Mazzant issued a Memorandum Opinion and Order granting a nationwide preliminary injunction that prevents the Department of Labor ("DOL") from implementing or enforcing its Final Rule on the salary level test for exemptions. As a result of the preliminary injunction, executive, administrative and professional employees do not automatically have to be paid at least $913 per week ($47,476 annually) effective December 1, 2016, in order to be considered exempt under the Fair Labor Standards Act ("FLSA").Instead, the salary-level that must be paid to an executive, administrative, or professional employee remains $455 per week ($23,660 annually) and the applicable Duties Test must still be applied in order to determine whether an employee is exempt from the minimum wage and overtime requirements.

©2026 Masuda, Funai, Eifert & Mitchell, Ltd. All rights reserved. This publication should not be construed as legal advice or legal opinion on any specific facts or circumstances. The contents are intended solely for informational purposes and you should not act or rely upon information contained herein without consulting a lawyer for advice. This publication may constitute Advertising Material.

As noted in our May Client Advisory, on May 23, 2016, the DOL issued a Final Rule that increased the minimum salary level needed for an executive, administrative, or professional employee to be considered exempt from the FLSA's minimum wage and overtime requirements. In short, the Final Rule increased the minimum salary from the $455 per week ($23,660 annually) to $913 ($47,476 annually), increased the highly compensated employee salary level from $100,000 per year to $134,004 per year, and provided for an automatic increase in these amounts every three years starting in January, 2020. The Final Rule was set to become effective next Thursday, December 1, 2016.

In response to these new requirements, twenty-one states filed suit against the DOL, the Wage and Hour Division, and their agents challenging the Final Rule. On October 12, 2016, the states filed an emergency motion for preliminary injunction challenging "the lawfulness of the Final Rule, the Department's authority to promulgate it [and] whether the automatic updating mechanism complies with APA requirements."In a separate lawsuit, the Plano Chamber of Commerce and over 50 other business organizations also challenged the Final Rule.On October 14, 2016, the Court consolidated the business organization action with the state action for injunction purposes.

As part of its analysis in granting the nationwide preliminary injunction, the Court noted the DOL's increased salary-level "ignores Congress's intent by raising the minimum salary level such that it supplants the duties test." According to the Court, by increasing the salary level from $455 per week ($23,660 annually) to $913 ($47,476 annually), the increase made the "analysis of the duties unnecessary," and it "created a de facto salary-only test" in violation of Congressional intent. In short, if "Congress intended the salary requirement to supplant the duties test, the Congress, and not the Department, should make the change." In finding the Final Rule unlawful, the Court also concluded the DOL lacked the authority to implement the automatic salary-level increase feature.

For more information about this or any other employment law topic, please contact Frank Del Barto, Chair of the Employment, Labor & Benefits Group, at 847.734.8811 or via email at fdelbarto@masudafunai.com.

©2026 Masuda, Funai, Eifert & Mitchell, Ltd. All rights reserved. This publication should not be construed as legal advice or legal opinion on any specific facts or circumstances. The contents are intended solely for informational purposes and you should not act or rely upon information contained herein without consulting a lawyer for advice. This publication may constitute Advertising Material.