

Blog Post

Legal Challenges to the U.S. Department of Labor's New Overtime Rule

July 1, 2024

As expected, the first lawsuits have been filed to challenge a new Department of Labor (DOL) “Overtime Rule” that significantly raises the minimum salary threshold for the exempt, administrative, and professional (EAP) and highly compensated employee (HCE) overtime exemptions under the Fair Labor Standards Act. The new rule is intended to take effect today, July 1, initially increasing the EAP salary minimum from \$684/week (\$35,568 annually) to \$844/week (\$43,888 annually) and the HCE salary minimum from \$107,472 annually to \$132,964 annually before another set of increases come on January 1, 2025. The plaintiffs in the lawsuits have each asked the court to immediately block enforcement of the new rule pending a ruling on the merits of the challenges, raising the question of whether employers will need to adapt to this change and, if so, when.

The Lawsuits

The first lawsuit, *Plano Chamber of Commerce et al. v. Su*, asserts that the DOL rule is impermissible because its focus on the salary portion of the exemption test “effectively eliminates the duties test,” which predicates exempt status in part on the primary duties of the job in question. The plaintiffs requested expedited consideration of their complaint, which they filed in the Eastern District of Texas, in order to avoid irreparable harm to both employers and employees who will be subject to

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new overtime requirements in light of the July 1 effective date.

The second lawsuit, *State of Texas v. U.S. Dept. of Labor*, seeks to immediately block enforcement of the rule based on a similar argument that the rule exceeds the DOL's powers. In that case, also filed in the Eastern District of Texas, the Attorney General of Texas requested a temporary restraining order to immediately block enforcement of the rule. The third case, *Flint Avenue, LLC v. Su*, makes similar arguments in the Northern District of Texas.

In sum, the pending cases seek to invalidate the overtime rule as exceeding the DOL's statutory authority because its focus on minimum salary levels improperly focuses on salary rather than an employee's duties to determine whether the employee should be classified as exempt from overtime pay. In each of the cases, the challenges point specifically to the 2016 overtime rule issued by the Obama Administration, which was invalidated by the Eastern District of Texas. Hoping to achieve the same result, the challengers in the 2024 cases rely heavily on the Eastern District's 2016 decision, which found that the Obama rule improperly made salary the sole factor in determining exempt status and effectively invalidated the duties test.

What's Next?

Last week, the court in *State of Texas v. U.S. Dept. of Labor* granted the State of Texas's motion for injunctive relief, and concluded that the DOL's overtime rule is "likely unlawful" because the rule changes make salary predominate over duties for millions of employees, and the changes exceed the authority delegated by Congress to define and delimit the relevant terms. Notably, the injunctive relief only applies to one employer: the State of Texas as an employer — not as a geographic territory. Nonetheless, the decision bodes well for the likelihood of the new overtime rule ultimately failing.

Even though these cases give hope to employers that the courts will strike down the new overtime rule, employers should continue planning to comply with the salary increases effective on July 1 and coming up on January 1, 2025. This should continue even though the new overtime rule is subject to legal challenges, to ensure employers are prepared to implement the required changes if either there is no further court action to prevent the overtime rule's implementation or in the event a court rules at a later date that the new rule is valid and effective. Akerman attorneys are here to assist in that process.

Please stay tuned for further coverage of this development on the HR Defense [blog](#).

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