

PUBLICATION

DOL's Overtime Rule Blocked Nationwide by Texas Court [Ober|Kaler]

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Employers looking for a break were just given one by a Texas federal court right before the Thanksgiving holiday. A federal court in the Eastern District of Texas unexpectedly granted a preliminary nationwide injunction blocking the enforcement of the Fair Labor Standards Act overtime rule. Employers are no longer required to implement the rule by December 1, 2016 deadline.

The lawsuit was filed by 21 states and a number of employer groups, and it contended that the Department of Labor ("DOL") exceeded its rulemaking authority when it doubled the salary level test under the "white collar" exemptions from \$23,660 (\$455 per week) to \$47,476 (\$913 per week).

Judge Amos L. Mazzant III, an Obama-appointee, found that the states successfully demonstrated that "irreparable harm" would occur if the rule went into effect and that the DOL went beyond its authority by raising the salary level. The court expressly held that the DOL's increase of the salary level was unlawful under the plain language of the FLSA in that "Congress did not intend salary to categorically exclude an employee with [exempt] duties from the exemption." The court held that although the DOL had authority to determine the duties tests under the "white collar" exemptions (Executive, Administrative and Professional exemptions), it did not have authority to raise the salary level to effectively "supplant[] the duties test." The court also reasoned that, "[a] preliminary injunction preserves the status quo while the court determines the department's authority to make the final rule as well as the final rule's validity."

The Court's decision will likely be appealed to the Fifth Circuit Court of Appeals. And, President-elect Donald Trump may consider revising the regulation, if the Texas court later decides to reinstate the rule. At the moment, however, the Rule will not take effect on December 1, 2016.