

## Federal Court Strikes Down Obama-Era Overtime Rule

SEPTEMBER 5, 2017

On August 31, 2017, a federal judge in Texas issued a decision striking down a Final Rule issued by the Department of Labor (DOL) that would have dramatically increased the minimum salary threshold for white collar employees to be exempt from the Fair Labor Standards Act (FLSA) overtime requirements. The decision appears to mark the death-knell of a Final Rule that had generated significant public and political debate.

### The Final Rule

In May 2016, the DOL published a Final Rule to update the FLSA regulations defining and delimiting the exemptions for white collar employees. The Final Rule nearly doubled the salary threshold needed to qualify for the FLSA's "white collar" exemptions, to \$47,476 annually. For more details on the Final Rule, [view our briefing here](#).

### The Lawsuit and Nationwide Injunction

In September 2016, 21 states and more than 50 business groups filed a lawsuit in the U.S. District Court for the Eastern District of Texas to block the rule. *State of Nevada, et al. v. U.S. Department of Labor, et al.*, Case No. 4:16-cv-00731. Arguing that the DOL overstepped its authority to establish a federal minimum salary level for white collar workers, the plaintiffs requested an emergency preliminary injunction to stop the rule from taking effect. On November 22, 2016, the judge granted a nationwide preliminary injunction, and the rule did not go into effect pending further proceedings in the district court. For more details on the nationwide injunction, [view our briefing here](#).

### The DOL's Appeal and Subsequent Change in Position

On December 1, 2016, the DOL appealed the district court's injunction to the Fifth Circuit. After President Trump took office, however, the DOL tacitly withdrew its support for the Final Rule and signaled it would try to institute a more moderate increase to the salary threshold. On June 27, 2017, the DOL submitted a Request for Information on the Final Rule, the first step toward reopening the rule for comment. On June 30, the DOL filed a reply brief with the

Fifth Circuit defending its right to establish a salary-level test under the FLSA, but stating that it had decided “not to advocate for the specific salary level” in the Final Rule. The Fifth Circuit has not issued a ruling in the appeal.

## The District Court’s Final Decision

On August 31, the district court issued a final decision, finding that the Final Rule’s updated salary-level test was impermissible because it made overtime status “depend predominantly on a minimum salary level, thereby supplanting an analysis of an employee’s job duties.” As a result, the court found, the Final Rule failed to carry out Congress’s unambiguous intent in enacting the FLSA.

## What’s Next?

For the foreseeable future, the Obama-era Final Rule appears to be dead letter. First, the district court’s final decision likely renders the pending appeal of its preliminary injunction order moot. Moreover, the DOL has already indicated it will not defend the Final Rule; therefore, it is unlikely to appeal the district court’s final decision. Labor-friendly groups may attempt to take the DOL’s place. If they are permitted to do so, then they will likely appeal the district court’s final decision to the Fifth Circuit. Their efforts, however, may be in vain, as the current DOL appears likely to issue a new rule with a more moderate increase to the minimum salary threshold. In any event, employers who have made efforts to comply with the Final Rule may continue to postpone implementation of those changes until further notice

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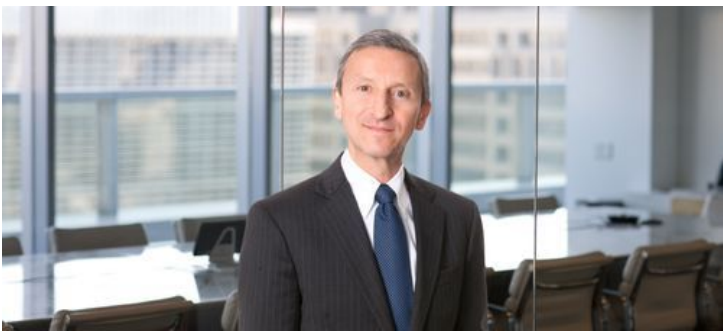
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