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LEGAL UPDATES

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Fifth Circuit Concludes FLSA 2019 Minimum Salary Rule Falls Within Department of Labor's Authority

We previously wrote about the U.S. Department of Labor's 2024 overtime rule that raises the salary basis for overtime exemptions under the Fair Labor Standards Act (FLSA). We explained that this rule was bound to face legal challenges similar to those faced by prior rules increasing the salary thresholds under the FLSA, including the Trump administration's 2019 rule. Yesterday, the Fifth Circuit determined the fate of the 2019 Minimum Salary Rule. In short, the court ruled that the inclusion of a minimum-salary requirement is within the DOL's explicitly delegated authority to "define and delimit" the terms of the FLSA's executive, administrative, or professional capacity (EAP) exemption (also called the White Collar Exemption).

The Fifth Circuit's ruling is limited to whether the DOL has the authority to include a minimum-salary requirement within the EAP Exemption. The Fifth Circuit does not address whether the DOL has the authority to raise the minimum salary threshold or whether the salary levels of the 2019 rule are valid—appellants did not raise those questions to the court. The court explained that “[u]sing salary level as criterion for EAP status” has strong support in the text of the FLSA. For example, “executive” connotes a particular status or level for which salary may be a reasonable proxy. The court further stated that “[d]istinctions based on salary level are also consistent with the FLSA’s broader structure, which sets out a series of salary protections for workers that common sense indicates are unnecessary for highly paid employees.”

What does this mean for the 2024 overtime rule? The Fifth Circuit's ruling yesterday is binding on the federal district courts in Texas with pending legal challenges involving the 2024 overtime rule. In those cases, any argument that

the DOL lacks authority to rely on a minimum-salary requirement in determining EAP status will be rejected. However, the courts in those cases must still decide whether the actual 2024 salary threshold increases are valid or whether they effectively eliminate the duties test. They will also need to decide whether the provision in the 2024 overtime rule allowing for an automatic increase in the salary threshold every three years is valid.

With legal challenges and questions regarding the 2024 overtime rule still pending, employers should continue planning to comply with the next salary threshold increases effective January 1, 2025. Alternatively, employers should ensure that employees potentially affected by the January 1, 2025 increase do not work more than 40 hours per week.

Contact us

Husch Blackwell will continue to monitor the overtime rule's progress and provide updates as information is available. If you have any questions regarding the rule, please contact Scott Meyers, AJ Weissler, Sarah Hamill, or your Husch Blackwell attorney.