



## **Major Development: New Overtime Rule Temporarily Halted**

November 23, 2016

On November 22, 2016, the United States District Court for the Eastern District of Texas entered an order granting a preliminary injunction and halting implementation of the new overtime rule previously scheduled to take effect on December 1, 2016. The order came in a lawsuit brought by 21 states challenging the new rule.

The Plaintiff States allege that the new rule promulgated by the U.S. Department of Labor (USDOL) exceeds the authority provided by the Fair Labor Standards Act (FLSA). In its decision to grant a preliminary injunction, the court held that (1) the Plaintiff States are likely to prevail on the merits in their lawsuit; (2) the Plaintiff States have demonstrated a high likelihood of irreparable harm if the rule is implemented; (3) a balancing of hardships weighs in favor of an injunction; and (4) the public interest is best served by an injunction. The court described the public interest as follows:

The Court finds the public interest is best served by an injunction. If the Department lacks the authority to promulgate the Final Rule, then the Final Rule will be rendered invalid and the public will not be harmed by its enforcement. However, if the Final Rule is valid, then an injunction will only delay the regulation's implementation. Due to the approaching effective date of the Final Rule, the Court's ability to render a meaningful decision on the merits is in jeopardy. 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 injunction applies nationwide:

A nationwide injunction is proper in this case. The Final Rule is applicable to all states. Consequently, the scope of the alleged irreparable injury extends nationwide. A nationwide injunction protects both employees and employers from being subject to different EAP exemptions based on location.

A copy of the order is available [here](#).

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**What does it mean for employers?** This order is not a final determination on the merits. For now, the new overtime rule is on hold, pending further action by the courts. This means it is uncertain whether the rule will ever be implemented, whether on December 1 or at some later date. Given the anticipated shift in philosophy of the new Trump administration and Congress's disposition to agree on this issue, it is possible that there will be significant changes to the rule via new rulemaking or legislative action prior to a final determination in this lawsuit. For now, the status of the new overtime rule is "on hold." Because there is a possibility that the rule will still take effect at some point, employers should remain vigilant on the status of affected employees and remain ready to implement the new overtime changes, as well as develop an effective communication plan to update affected employees.

Plews Shadley Racher & Braun LLP is available to assist employers in navigating this new development. Additional information about Plews Shadley Racher & Braun LLP and its business services is available at [www.psrb.com](http://www.psrb.com).

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