

Here We Go Again: The DOL's Proposed Overtime Rule with its Accompanying New Salary Test is Struck Down by a Texas Federal Court

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On November 15, 2024, in the case of *State of Texas v. United States Department of Labor*, Texas federal court judge Sean Jordan struck down what had been scheduled to be a mandatory adjustment in the so-called “white collar” overtime exemption classifications taking effect on January 1, 2025.

The “white collar exemptions” included those employees classified as “executive”, “administrative” or “professional” employees who met both a “duties” test and a “salary” test under the Fair Labor Standards Act. Under a 2019 rule, the salary level needed to be met by an exempt employee was \$684/week or \$35,568 per year.

The Department of Labor under the Biden administration promulgated a rule which mandated two adjustments to the exempt salary requirement for executive, administrative and professional employees. Those adjustments called for an increase on July 1, 2024 to \$844/week or \$43,888/year; and a further adjustment scheduled for 2025 of \$1,128/week or \$58,656/year.

In his decision Judge Jordan, in vacating the DOL’s proposed rule, concluded that the DOL had impermissibly elevated the new salary requirement in a manner which, in essence, negated or drastically reduced the importance of an exempt employee’s bona fide job duties and thus exceeded its Congressionally delegated authority to determine the elements of a legitimate exempt employee under the FLSA.

While it is certainly possible that Judge Jordan’s decision could be appealed to the Fifth Circuit, given the results of the recent presidential election and the predicted more conservative and employer-friendly trends that will most likely follow in agencies such as the DOL, EEOC and NLRB, it is more probable that for the time being the decision striking down the proposed new salary level will remain in effect.

The implication of the decision is that the former salary level of \$684/week for exempt employees will remain in effect now pending any further adjustment sometime in the future. From a business perspective, companies that adjusted their exempt salary levels back in July will have to decide whether it is more prudent and acceptable to keep those salary levels intact rather than reverting to the then-mandated July 1 adjustment.