

Today, the U.S. District Court for the Eastern District of Texas issued a preliminary injunction stopping the DOL from implementing the new salary level of \$913 per week for the white collar exemption under the Fair Labor Standards Act. As you may recall, the existing minimum salary for a white collar exempt employee is \$23,660. The new DOL regulation that would have been effective on December 1 raised the minimum salary for \$47,476. This was projected to have a major impact on companies throughout the country as each had to decide whether to make employees hourly or salaried non-exempt or raise their compensation to the new level.

Based on the court's nationwide injunction, the previous DOL regulation is in effect and there will be no increase on December 1. If companies have already communicated to employees any new compensation changes based on the new DOL regulation, companies may want to consult counsel and follow up with communications with employees that the status quo remains.

For now, the minimum salary level will remain \$455 per week for the white collar overtime exemption. The injunction is only a preliminary injunction, meaning that there will be further court proceedings, but for now the status quo remains.. DOL may also appeal the injunction. But until further court order, the minimum salary level for the white collar exemptions remains \$455 per week.

The Court's order in *State of Nevada et al. v. U.S. Department of Labor et al.*, enjoining the DOL regulations, held that DOL had created a de facto salary test for the white collar exemptions, supplanting the duties test by making the salary the most important factor in the exemption instead of job duties. The Court stated that the clear language of the Section 213 white collar exemption, and the intent of Congress, was to create a salaried exemption for persons performing the *duties* of a bona fide executive, administrative, or professional employee. The Court held the focus should be on the duties.

Best practice tips to protect your company regarding wage and hour issues include, but are not limited to: ensuring accurate timekeeping records, reviewing job classifications and corresponding compensation, auditing overtime to verify it is correctly paid, reviewing travel time pay, confirming piece rate is paid accurately, and more. It may be time to complete an Human Resources and Wage and Hour audit at your company. Be proactive and stay tuned for more changing laws and regulations.

**Julie A. Pace | The Cavanagh Law Firm | Responsive, Creative, Results.**

1850 North Central Avenue, Suite 2400 | Phoenix, Arizona 85004 | Direct: 602.322.4046 | Cell: 602.397.9871 | Fax: 602.322.4101 | [jpace@cavanaghlaw.com](mailto:jpace@cavanaghlaw.com)



*Julie Pace's practice handles employment law, handbooks, drug and alcohol policies, I-9 and E-Verify compliance, OSHA, independent contractor and alleged misclassification issues with DES and other government agencies, and defends claims of sexual harassment, employment discrimination, retaliation, whistleblower, and wrongful discharge, and against charges by the EEOC or ACRD. She handles matters involving OSHA, ICE, OFCCP, DOL, NLRB, ADA, FMLA, ERISA, ACA, Davis-Bacon, FAR, SCA, government contracts, and wage and hour laws. She regularly provides training to companies and assists with investigations. Julie can be reached at 602.322.4046 or [jpace@cavanaghlaw.com](mailto:jpace@cavanaghlaw.com)*