

## Employment Law Update September 2017

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We represent clients ranging from large corporations to small enterprises and individuals. We have the resources to assemble a coordinated team of lawyers and support staff to meet the specific needs of each client.

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A federal judge in Texas recently struck down the Obama-era overtime rule that would have likely resulted in the expansion of overtime pay to millions of currently exempt employees. The proposed rule would have raised the minimum salary necessary for an employee to be exempt from overtime compensation from \$23,660 to \$47,476.

While the Texas judge concluded that the Department of Labor had the authority to modify the minimum salary threshold for overtime compensation, he concluded that the proposed increase was exorbitantly high. The judge wrote that because the proposed change “more than doubles the previous salary level,” the Department of Labor “has exceeded its authority and gone too far.” The decision thus creates some uncertainty as to what authority the Department of Labor actually has to modify the minimum salary threshold going forward.

As most know, the FLSA requires employers to pay employees one and one-half times the employee’s regular rate of pay for hours worked in excess of 40 in any given work week. Certain employees, however, qualify as being exempt from overtime compensation if they meet certain criteria. One such criteria is that they have to receive an annual salary at or above \$23,660 as the law currently stands.

Before this ruling was issued, the Trump administration had indicated a willingness to consider an increase in the minimum annual salary threshold to something in the neighborhood of \$32,000. Given the Texas court’s ruling, it is unclear what changes, if any, may be forthcoming to the minimum salary. The ruling does, however, open the door to allow the Department of Labor to propose a more moderate salary increase to the minimum salary threshold, which was set in 2004.

If you have any questions or would like to discuss the above issues in more detail, please do not hesitate to contact Bryan Niemeyer, Certified Labor and Employment Law Specialist, Faulkner, Garmhausen, Keister & Shenk, A Legal Professional Association, at 937-492-1271 or [bniemeyer@fgks-law.com](mailto:bniemeyer@fgks-law.com).