

## INSIGHTS + NEWS

### Client Alert: Federal Court Overturns DOL's New Overtime Rule

BY TRACY THOMAS BOLAND AND RAYMOND M. RIPPLE • NOVEMBER 18, 2024

On November 15, 2024, in *State of Texas v. Dep't of Labor*, 24-cv-468-SDJ, the U.S. District Court for the Eastern District of Texas vacated the Department of Labor's (DOL) final rule raising the salary thresholds for being exempt from overtime under the Fair Labor Standards Act (the "2024 Rule"). In other words, the increased salary threshold is no longer going into effect. The court's order applies on a nationwide basis.

#### RELEVANT BACKGROUND

The FLSA generally requires covered employers to pay employees at least the federal minimum wage and requires overtime be paid to employees who work more than forty hours in a week. The FLSA includes several exemptions to these requirements, including an exemption for executive, administrative, and professional ("EAP") employees. The EAP exemption provides that the minimum wage and overtime requirements of the FLSA shall not apply to "any employee employed in a bona fide executive, administrative, or professional capacity," as those terms are defined by DOL regulations. The FLSA does not provide a minimum salary or compensation level for an employee to qualify for the EAP exemption. Instead, the DOL has promulgated regulations that include a minimum salary level for EAP employees.

The 2024 Rule issued by the DOL raised the minimum salary at which EAP employees must be paid – part one of a two-part test – to determine if employees are exempt from minimum wage and overtime pay under the FLSA. This would have changed the exemption status of millions of employees throughout the United States. The 2024 Rule implemented three staged changes to the EAP exemption: (1) increase of the minimum salary level from \$684 per week to \$844 per week starting July 1, 2024; (2) increase of the minimum salary level from \$844 per week to \$1,218 per week starting on July 1, 2025; and (3) automatic increases in the salary level every three years based on available earnings data with the first automatic increase beginning on July 1, 2027.

#### THE DECISION

The State of Texas and a group of business organizations brought suit against the DOL contending that the 2024 Rule exceeded the DOL's authority because it increased the minimum salary for the EAP exemption in a way that effectively replaced the duties-based inquiry (part two of the two-part test) required by the FLSA with a salary-level test. The court agreed and held that while the DOL may use a salary basis test to define the limits of the EAP exemption it cannot allow the salary requirements to effectively displace, or "swallow", the duties test for the exemption. "[B]ecause the EAP Exemption requires that an employee's status turn on duties—not salary—and because the 2024 Rule's changes make salary predominate over duties for millions of employees, the changes exceed the Department's authority to define and delimit the relevant terms." The court invalidated both the July 1, 2024 salary threshold increase and the upcoming January 1, 2025 threshold increase. Moreover, the court further held that the 2024 Rule's automatic indexing mechanism requiring further salary threshold increases every three years exceeded the DOL's statutory authority under

the FLSA.

The decision is also significant because the court relied upon the recent U.S. Supreme Court decision in *Loper Bright Enterprises v. Raimondo*, which made clear that “[c]ourts must exercise their independent judgment in deciding whether an agency has acted within its statutory authority.” 144 S.Ct. 2444, 2273 (2024). By way of reminder, the *Loper Bright* case had received a lot of attention given its overturning of the *Chevron* doctrine. For forty years, the *Chevron* doctrine required courts to defer to an agency’s interpretation of the law. That is no longer true, and it is notable that the decision overturning the DOL’s 2024 Rule on the salary threshold was based on the court’s newly found authority to do so post *Loper Bright*.

## WHAT HAPPENS NEXT?

The court’s ruling vacates the 2024 Rule in its entirety on a nationwide basis, including that portion of the rule that already went into effect on July 1, 2024, and the further increase set for January 1, 2025 will not be required. As a result, the salary threshold for the EAP exemption reverts back to the DOL’s prior rule, which set the EAP exemption at \$684 per week (or \$35,568 annually). Notably, while the ruling did not extensively analyze the “highly compensated employee” (“HCE”) exemption, the court stated that the analysis related to the EAP exemption equally applies to the HCE exemption. As a result, the salary threshold for the HCE exemption similarly reverts back to its prior level, or \$107,432 per year.

The DOL has the option to appeal the ruling to the U.S. Court of Appeals for the Fifth Circuit. However, the viability of any appeal will likely be impacted by the incoming DOL under the Trump administration.

To the extent employers already made changes to salary levels (which was reasonable given the 2024 Rule being in effect until now), technically salaries could be reverted back. However, employers would be wise to consider the impact of that on employee morale. Finally, a reminder that this Rule only affected the “salary test” portion of the exempt status analysis. Even where an employee meets the salary threshold, they must still meet the “duties test” portion of the analysis in order to be properly classified as exempt.

If you have any questions about this alert or any other employment-related matters, please contact your Bowditch employment attorney.