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CLIENT ALERT

NEW OVERTIME RULE
TEMPORARILY BLOCKED BY FEDERAL COURT

A preliminary injunction issued by the District Court in Texas on November 22, 2016 in a lawsuit brought by 22 states and 55 business groups blocks implementation of the U.S. Department of Labor's (DOL) new rule re-defining which employees are exempt from the minimum wage and overtime requirements of the Fair Labor Standards Act). The new rule—which had been scheduled to take effect on December 1, 2016—would have dramatically increased the minimum salary level for exempt employees from $455 per week ($23,660 annually) to $913 per week ($47,476 annually).

IMMEDIATE IMPACT

1. Because of the preliminary injunction blocking the DOL's implementation of the new rule, employers are not required to comply with the rule by December 1st. So, employers are free to put on hold for the moment any yet-to-be-implemented plans to raise the salary of currently exempt employees to $913 per week or to convert employees with lower salaries to non-exempt status.

2. This is a temporary injunction. The DOL may appeal the decision to the United States Court of Appeals for the Fifth Circuit, which could reverse the decision. Of course, the incoming Trump administration may decide not to pursue an appeal.

KEY POINT:

> While employers are not required to implement changes to comply with the new rule by December 1st, they should remain ready to comply quickly if the decision is reversed.

3. As to changes in salary or classification (from exempt to non-exempt) that have already been announced or implemented by employers, careful thought should be given before undoing such steps -- including anticipating a possible reversal of the injunction, as well as considering potential impacts on employee morale. Some employers may choose to sit tight and await the

DOL's decision as to whether to appeal the Texas District Court's decision, and the results of any such appeal.

Questions about the preliminary injunction or other employee salary and overtime issues may be directed to Paul Holtzman (PHoltzman@kb-law.com) or Jill Brenner Meixel (JMeixel@kblaw.com) at (617) 482-7211.