



Fair Labor Standards Act (FLSA): Update

Expedited Schedule Set by Fifth Circuit to Review Injunction Halting Overtime Rules

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As the Obama Administration enters its final weeks, the Department of Labor (“DOL”) has taken action to expedite a judicial resolution of whether its new overtime rules (the “Rule”), which raise the minimum salary for employees who are exempt from the overtime requirements to \$47,892 annually, will take effect. The implementation of the Rule was called into question after a Federal District Court Judge in Texas issued an injunction staying implementation of the Rule. The DOL filed a motion for an expedited briefing schedule and hearing regarding the preliminary injunction to stay the implementation of the Rule, and the Fifth Circuit granted this motion. Recent prior Zetlin & De Chiara alerts discussing the new Rule can be found on our website [here](#) and [here](#).

The Fifth Circuit issued an order setting December 16th as the due date for the opening brief of the DOL (appellant) and January 24th as the due date for the states/business groups’ (respondent) brief. The DOL’s reply brief

will be due on January 31st. The Court also agreed to expedite oral arguments in February once the briefs were submitted.

While the DOL's request for an expedited briefing schedule has been granted, it still puts the deadlines into President-Elect Trump's term. Even though the Fifth Circuit (which tends to be pro-business and conservative) could overturn the injunction, the new President and the Republican controlled Congress could still take steps to derail the implementation of the Rule. This could include the enactment of new rules or a DOL decision to stop opposing the States' and business groups' position.

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