



LABOR AND EMPLOYMENT LAW ALERT

Trump Administration Seeks Delay in Overtime Litigation

On January 25, 2017, the U.S. Department of Justice (DOJ) asked the Fifth Circuit Court of Appeals in Louisiana to delay litigation over the implementation of new overtime rules that would have dramatically increased the minimum salary threshold for exempt employees. The DOJ requested an additional 30 days to file its final reply brief in a case challenging the U.S. Department of Labor's (DOL) overtime rule. According to the DOJ, the extension "is necessary to allow incoming leadership personnel adequate time to consider the issues."

Translation—President Trump needs time for Labor Secretary Nominee Andrew Puzder to be confirmed and to decide whether the DOJ, which represents the DOL, will withdraw its appeal seeking to reinstate the overtime rule. Mr. Puzder has publicly criticized the overtime rule, and it is widely expected that under his leadership, the DOJ will completely abandon the prior administration's changes to overtime regulations. If the appeal is withdrawn, it will leave in place the court's injunction blocking the overtime rule.

Anticipating that the DOJ may withdraw its appeal, and perhaps withdraw from the underlying action altogether, the AFL-CIO recently asked to intervene in the litigation. If permitted to intervene, the AFL-CIO would continue the appeal and seek to reinstate the overtime rule even if the DOJ withdraws.

Plaintiffs consented to the DOJ's extension request, which would ordinarily be granted under such circumstances. However, since the DOJ asked the court just last month to expedite the appeal it now wants delayed, it is unclear whether the request will be granted. If the request is denied, the DOJ will have to act quickly, as its reply brief is currently due on January 31, 2017.

For questions regarding this information, please contact any of the Hancock Estabrook, LLP attorneys listed below.

Melinda Burdick Bowe	315.565.4507	mbowe@ Hancocklaw.com
John F. Corcoran	315.565.4515	jcorcoran@ Hancocklaw.com
Lindsey H. Hazelton	315.565.4527	lhazelton@ Hancocklaw.com
Whitney M. Kummerow	315.565.4517	wkummerow@ Hancocklaw.com
John T. McCann	315.565.4540	jmccann@ Hancocklaw.com
Robert J. Thorpe	315.565.4555	rthorpe@ Hancocklaw.com
Robert C. Whitaker, Jr.	315.565.4557	rwhitaker@ Hancocklaw.com

This communication is for informational purposes and is not intended as legal advice.