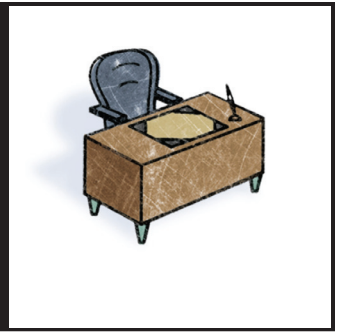




# PHILLIPS LYTLE LLP CLIENT ALERT

## LABOR & EMPLOYMENT



DECEMBER 2016

## *Federal Court of Appeals Grants Motion for Expedited Appeal in Overtime Regulation Case*

### **What Happened?**

As previously noted in our most recent Labor & Employment [Client Alert](#), a federal district court in Texas has issued a nationwide preliminary injunction temporarily barring the U.S. Department of Labor (DOL) from implementing its new salary level regulations for the “white collar” executive, administrative and professional overtime exemptions. In another surprise decision issued on December 8, 2016, the Fifth Circuit Court of Appeals granted the DOL’s motion for an expedited appeal to review the lower court’s decision. Ruling on the DOL’s motion, the Fifth Circuit has agreed to receive written briefs as early as December 16, 2016, with oral argument to take place sometime after January 31, 2017. This means that the Fifth Circuit could rule on the issue based on the position of the DOL under the Obama Administration.

### **What Do Employers Do Now?**

As the preliminary injunction is currently still in effect, employers may continue to follow the existing overtime regulations. Although there is the possibility that the incoming Trump Administration would change course with respect to the new regulations, a decision by the Fifth Circuit reversing the injunction would create

immediate consequences for unsuspecting employers. For this reason, employers should have a back-up plan to comply with the DOL regulations, e.g., paying overtime to salaried exempt employees who do not meet the increased salary requirement pending further clarification from the Trump Administration.

### **What About New York State?**

As was also reported in our most recent client alert, New York employers should also be mindful that the New York State Department of Labor has proposed increasing the minimum exempt salary level for executive and administrative employees. (New York does not have a minimum salary level for professional employees.) This proposed wage order, regardless of the state of the federal regulations, would result in graduated increases to the minimum exempt salary level for executive and administrative employees in New York State, beginning December 31, 2016.

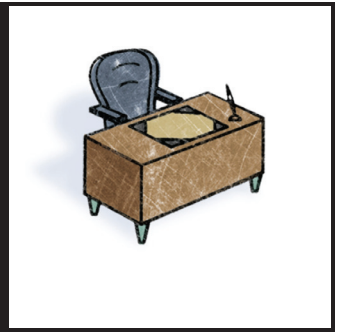
### **Additional Assistance**

*Should you have any questions regarding the federal bar on new overtime salary requirements or any other labor and employment matters, please contact any of the attorneys on our Labor & Employment Practice Team. ■*



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DECEMBER 2016

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