

Client Alert **Employment & Labor**

Special Alert

NY State Overtime Salary Threshold Increases for Exempt Executives and Administrative Employees – Effective December 31, 2016

This EMPLOYMENT & LABOR SPECIAL ALERT concerns important developments regarding the white collar overtime exemptions under New York Labor Law (“NYLL”).

A nationwide preliminary injunction now enjoins the U.S. Department of Labor from implementing its new white collar overtime exemption regulations that would have significantly increased the current salary threshold for the executive, administrative, and professional exemptions under the Federal Fair Labor Standards Act (“FLSA”). On November 22, 2016, a federal district judge in Texas halted these increases, that had been scheduled to take effect on December 1, 2016. However, recent regulations that the New York State Department of Labor (“NYSDOL”) adopted on December 28, 2016, and that are scheduled to go into effect in only two days, on December 31, 2016, will nevertheless increase the minimum salary thresholds for executive and administrative employees throughout New York State under the wage and hour provisions of the NYLL.

The NYSDOL published, on October 19, 2016, proposed amendments to New York State’s minimum wage orders (the “Proposed Wage Orders”) to increase the minimum wage and also to raise the thresholds for executive and administrative employees under the NYLL (the NYLL does require a minimum salary threshold for exempt professional employees). Presently, the minimum salary threshold for the executive and administrative employee exemptions (from overtime pay) under the NYLL is \$675.00 per week

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(\$35,100.00 per year). The NYSDOL has now adopted its Proposed Wage Orders without making any changes.

Accordingly, increases (based on employer size (in New York City) and location) will now go into effect (on December 31, 2016) that will raise the minimum salary threshold to as high as \$825.00 per week (\$42,900.00 per year) for employers of 11 or more employees in New York City.

Employers throughout New York State must increase their exempt executive and administrative employees' salaries by December 31, 2016 to meet the requirements of the newly adopted Final Rules. New York State employers will also need to decide whether to increase such salaries each year to match the annual increases required each December 31 by these Final Rules. In sum, even though New York State employers did not need to increase salaries on December 1, 2016 under the FLSA, New York State employers must now raise many executive and administrative employees' compensation on December 31, 2016 to preserve the exempt (from overtime pay) status of such employees in New York State.

The following attorneys in our Employment and Labor Law Practice Group can help you address issues raised by these FLSA and New York Labor Law developments in New York, New Jersey, and throughout the rest of the nation.

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