



USDOL Appeals Last Week's Exemption Ruling (Updated 12 09 16)

Insights
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UPDATED 12 09 16: The 5th Circuit U.S. Court of Appeals has set an expedited briefing schedule, but oral arguments on the appeal of the preliminary injunction still will not take place until at least February. If the district court issues a final order in these matters in the meantime, an appeal would likely be consolidated with the current appeal.

The U.S. Department of Labor has filed its notice to appeal last week's preliminary injunction that prevented the salary-related changes in the federal Fair Labor Standards Act's "white collar" exemptions from taking effect today.

While this was expected, it is still not possible to predict how or when the revisions' status might be settled. Given that President Obama's term will end in less than two months, USDOL must urge the 5th Circuit U.S. Court of Appeals to act far more quickly than federal appellate courts normally do if the agency really seeks to have the issue resolved on this administration's watch.

Whether the 5th Circuit will be receptive to such efforts remains to be seen. On the other hand, sometimes the courts will fast-track matters of high importance.

This development emphasizes that employers should proceed thoughtfully, carefully, and deliberately in deciding how to react in an uncertain legal environment.