

Employment Law Updates August 2024

We have been tracking federal agency rules regarding noncompete agreements and overtime exemption salary thresholds. One such rule has been struck down while the other is currently in effect but is subject to pending legal challenges.

The FTC's Ban on Noncompete Agreements Has Been Struck Down and Will Not Go Into Effect on September 4, 2024

On August 20, 2024, a federal court in Texas struck down the Federal Trade Commission's (FTC's) rule banning most noncompete agreements which was set to take effect nationwide on September 4, 2024. The ban would have prohibited most new noncompete agreements and retroactively invalidated current agreements. The court held that the FTC did not have the authority to issue such a rule and that the rule was arbitrary and capricious because the FTC did not provide adequate justification for its universal reach.

The FTC is considering an appeal of the ruling, but for now the FTC's rule banning non-compete agreements will not take effect on September 4, and the FTC is without authority to enforce it. However, the FTC in its brief public statement following the ruling noted that this decision does not prevent the FTC from addressing noncompetes through case-by-case enforcement actions.

The First Phase Increase of the DOL's Overtime Exemption Salary Threshold Final Rule Is In Effect But the Rule Is Still Subject to Pending Legal Challenges

As we reported in [April 2024](#), the Department of Labor's Final Rule increasing the salary threshold for overtime exemptions for executive, administrative, and professional ("EAP") employees was set to take effect, in a staged approach, beginning July 1, 2024. Despite legal challenges being filed, no nationwide injunction has been entered, and other than as applied to the State of Texas as an employer, the new salary thresholds are currently in effect.

As a result, as of July 1, 2024, the standard salary threshold level for EAP employees increased from \$35,568 per year to \$43,888 per year. In other words, unless an EAP employee's salary met the new threshold as of July 1, they no longer satisfy exempt employee criteria. It is expected that courts with pending litigation over the DOL's Final Rule will issue rulings prior to the next staged salary threshold increase, which is set for January 1, 2025 and significantly increases the salary threshold to \$58,656 per year.

Our firm will continue to monitor these and other employment law developments. Reach out to any of our employment attorneys or your regular attorney contact with questions or for assistance.

EMPLOYMENT Alert

This alert was prepared by Hand Arendall Harrison Sale's Employment and Labor Practice Group. For further information or assistance, please contact the Employment and Labor Group attorney with whom you normally work.

Windy Cockrell Bitzer

Author

wbitzer@handfirm.com

251-694-6263

Mark T. Waggoner

Practice Group Chair

mwaggoner@handfirm.com

205-324-4400

Practice Group Members:

J. Lauren Applegate

Roger L. Bates

Lisa Darnley Cooper

Sarah E. Cureton

J. Cole Davis

Tracy R. Davis

Christine Harding Hart

C. Dennis Hughes

Robert C. Jackson

John S. Johnson

Julia K. Maddalena

Katherine Manning

Drew Sinor

Laurel Thorpe

Emily B. Van Haneghan

George M. Walker

Copyright © 2024 Hand Arendall Harrison Sale LLC. All rights reserved.

This alert is for general information only and is not intended as and does not constitute legal advice or solicitation of a prospective client. It should not be relied on for legal advice in any particular factual circumstance. An attorney-client relationship with the Firm cannot be formed by reading or relying on this information; such a relationship may be formed only by a specific and explicit agreement with Hand Arendall Harrison Sale LLC.

NOTE: The following language is required by Rule 7.2 of the Alabama State Bar Rules of Professional Conduct: "No representation is made that the quality of the legal services to be performed is greater than the quality of legal services performed by other lawyers."

Alabama: MOBILE • BIRMINGHAM • ATHENS • FAIRHOPE
Florida: DESTIN • PANAMA CITY • PANAMA CITY BEACH • SANTA ROSA BEACH