



Employment Update

Keeping You Informed About Employment Matters

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FTC Ban on Non-Competes & FLSA Increased Salary Threshold for Overtime

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Two new rules have recently been published that may lead to big changes in the workforce. Non-compete agreements may soon be prohibited for most workers, and workers may be receiving substantial bumps in pay to maintain their exempt from overtime status.

FTC Non-Compete Clause Rule

On May 7, 2024, the Federal Trade Commission ("FTC") published a final rule prohibiting employers from entering into new non-compete clauses with all workers on or after the rule's effective date on September 4, 2024. Non-compete clauses include any contracts that prohibit, penalize, or function to prevent workers from (1) seeking or accepting other employment or (2) operating a business in the United States after the conclusion of employment. The rule covers paid and unpaid employees, independent contractors, volunteers, interns, externs, and workers hired by staffing agencies. The rule voids any non-compete clauses entered before its passage for these workers. It does not prohibit other agreements, such as non-disclosure or severance, if the agreement does not restrict the employee after employment. However, for "senior executives," existing non-compete clauses may remain in force after the effective date. Senior executives earn more than \$151,164 annually and are in a policy-making position, such as a president or CEO.

Multiple parties have filed suit disputing the new rule and are seeking to prevent its enforcement. Cases are currently pending in the Northern District of Texas and the Eastern District of Pennsylvania. Depending on the outcome of these cases, the rule could be delayed for a period of time, or ultimately be unenforceable.

FLSA Increased Salary Threshold

Certain employees are typically exempt from overtime requirements if they meet a minimum salary threshold and complete certain duties. The Department of Labor ("DOL") recently published a final rule that substantially increases the salary thresholds for the executive, administrative, and professional ("EAP") and highly compensated employee ("HCE") exemptions. The duties tests remain unchanged.

As of July 1, 2024, EAP employees' salary threshold increases from \$35,568 to \$43,888 per year to maintain the exemption from overtime. The HCE annual salary threshold increases from \$107,432 to \$132,964 per year. Those salary threshold levels increase again on January 1, 2025, to \$58,656 per year (EAP) and \$151,164 per year (HCE).

Similar court actions have been initiated in an attempt to prevent the DOL from implementing the new salary threshold. Depending on the outcome of upcoming hearings, the initial July 1, 2024, increase may be postponed.

As courts continue to consider these issues, employers will be provided with additional guidance. If you have any questions, please call the Radey Law Firm at 850-425-6654.

This article is meant to provide a brief overview and points of discussion regarding employment and labor law topics. Should a particular issue arise or should you desire additional consultation to protect your firm, the advice of a competent counsel should be sought.