

## Remember that December 1, 2016 Deadline for FLSA Salary Threshold Changes? . . . It's being challenged.

Last June, [we reported](#) on the "New Rule" released by the Department of Labor doubling the salary threshold for exempt employees under the Fair Labor Standards Act (FLSA). This drastic change is currently scheduled to take effect on December 1, 2016. Not surprisingly, employers across the country-private, nonprofit, and even state government employers-responded with alarm. Indeed, I have personally heard that alarm in taking calls from many of you, our clients, seeking counsel on how to navigate the new requirements.

Since then, however, there are at least two efforts afoot to delay or derail the New Rule. First, just last week, the [House voted](#) 246-177 to delay implementation of the New Rule by six months to June 1, 2017. The Senate has introduced a companion bill, but President Obama has vowed to veto the measure if passed by both houses.

Separately, two lawsuits have been filed: one by 21 State Attorneys General and a second by a coalition of 50 business groups including the Chamber of Commerce and the National Association of Manufacturers.

The [State Attorneys General](#) contend that the New Rule violates the Tenth Amendment by mandating how states will pay their employees. They also argue that the Rule will throw state budgeting processes into confusion by requiring states to pay overtime to more employees and, ultimately, drain state resources.

The [business group lawsuit](#), filed the same day in the same court, argues that the Obama Labor Department exceeded its statutory authority in issuing the New Rule.

The plaintiffs in both lawsuits have requested a "stay" on the New Rule taking effect until the matter is resolved by the courts. Whether a judge will issue an injunction is yet to be determined as the lawsuits were just filed on September 20, 2016.

Bottom line: keep working on your employee classifications and prepare for the December 1, 2016 implementation of the New Rule . . . but stay tuned on whether these high-powered challenges will give you some breathing room.





**Christine Lambrou Johnson**, *Of Counsel* at Gammon & Grange, P.C., is an experienced litigator representing employers in their obligations under federal and state employment law. She prosecuted dozens of FLSA wage and hour law claims while serving as Assistant Attorney General for the State of Illinois, and successfully defended numerous discrimination suits.

**Gammon & Grange, P.C.** conducts Employment and FLSA Audits to ensure compliance with the patchwork of state and federal regulations and ultimately to help nonprofits and for-profits alike flourish as their employees thrive. Ms. Johnson would be happy to provide a no-cost initial consultation to determine whether your organization could benefit from the audit.

© 2016 Gammon & Grange, P.C. For more information, contact Gammon & Grange, P.C., [ggalert@gg-law.com](mailto:ggalert@gg-law.com); 703-761-5000), a law firm serving nonprofit organizations and businesses throughout the United States and abroad. Readers may freely copy and distribute this Alert **in full without modification**.

**Disclaimer:** This memo is provided for general information purposes only and is not a substitute for legal advice. The transmission of this memo does not create an attorney/client relationship. No recipients of this memo should act or refrain from acting on the basis of this memo without seeking professional legal counsel. Gammon & Grange, P.C. expressly disclaims all liability relating to actions taken or not taken based on the content of this memo.