Greetings from Nashville,

We hope this e-mail finds you well. We wanted to provide the following information from the Legal Services Department here at GCFA.

Yesterday, Judge Mazzant of the U.S. District Court in the Eastern District of Texas issued a Memorandum Opinion and Order in the case challenging the Department of Labor ("DOL") revisions to the "white collar" exemptions to the overtime provisions of the Fair Labor Standards Act ("FLSA"). Those revisions would have significantly changed the "minimum salary test" for determining whether an employee should automatically be categorized as a non-exempt employee, by raising the minimum salary threshold from $455 per week ($23,600 annually) to $921 per week ($47,892 annually). The revisions would have also established an automatic updating mechanism to adjust the threshold every three years. In the Opinion and Order, the Court granted the plaintiffs' motion for a temporary, nationwide injunction. The injunction postpones implementation and enforcement of the revisions which were to go into effect on December 1, 2016.

The Court first determined it had subject matter jurisdiction in the case, the power to review the DOL's decision in this administrative matter, and the power to enter an injunction in this case. It then decided the plaintiffs in this case had standing to sue in federal court, finding they all have potential injuries from the new rules that are "concrete, particularized, and actual or imminent, fairly traceable to the challenged action, and redressable by a favorable ruling." The DOL had not challenged the plaintiffs' motion on "standing" grounds. The Court then considered, and rejected, the DOL's position that the challenge to the automatic updating mechanism is not ripe for adjudication.

The normal standard for determining whether to enter a preliminary injunction was used in this case, namely: (a) a substantial likelihood of success on the merits; (b) substantial threat that plaintiffs will suffer irreparable harm if the injunction is not met; (c) the threatened injury outweighs any damage the injunction might cause the defendant; and (d) the injunction will not disserve the public interest. On the first prong of the test, the Court concluded that the revisions would have effectively created a "salary-only" basis for determining whether an employee is to be paid overtime, and that such a "salary-only" basis is contrary to the statutory text of the FLSA and to Congressional intent. As a result, the Court did not accord the revisions the deference normally given to administrative rulings and found them unlawful. Because of the determination that the salary-only standard itself is unlawful, the Court also found that the plaintiffs had shown a likelihood of success of on the merits of their claims against the automatic adjustment provision.

The Court determined, based on factual evidence presented by various of the plaintiffs relating to impacts on their workforces and lack of ability to increase salaries if the revisions were implemented, that the "irreparable harm" requirement had been met. Based on the Court's findings on the substantial likelihood of success on the merits and irreparable harm, and that the DOL had not articulated any harm that would be suffered by an injunction, the Court concluded the plaintiffs had demonstrated that the balance of hardships weighs in favor of granting preliminary injunctive relief. Finally, the Court found that the "public interest" would best be served by entering the injunction –if, at some later date, the DOL revisions are deemed to be valid, the only effect would be a delay in their implementation.

Based on its findings that all the required elements were met, the Court issued the injunction.

It is important understand the scope of the injunction. Again, it is a nationwide injunction. Additionally, the injunction only applies to: (a) the increase – from $455 per week ($23,600 annually) to $921 per week ($47,892) – to the "minimum salary test" amounts and (b) the provisions permitting adjustments to that amount every three years. It does not change the duties of employers to properly classify employees based on the salary basis, salary level ($455 per week, $23,600 annually), and duties tests that have been in effect for a number of years. And finally, as expected, the DOL has indicated its displeasure with the ruling and its intent to consider appealing it.