

The Virgin Islands Consortium

Preliminary Injunction On Overtime Pay Implementation Halted Until Further Notice

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Labor Commissioner Catherine A. Hendry on Wednesday notified all Virgin Islands employers and the general public that on November 22, 2016 U.S. District Judge Amos L. Mazzant ruled in a preliminary injunction that the United States Department of Labor overstepped its authority by raising the salary cap for overtime for workers who earn \$455 per week or \$23,660 per annum.

The announcement comes four days following Labor Commissioner Catherine Hendry's [reminder that the rules would take effect Dec. 1.](#)

The new rule would raise the salary cap for overtime to \$913 per week or \$47,476 per annum and include two other eligibility tests.

The U.S. D.O.L. argued it was merely updating the rule to keep up “with our modern economy.” The last update was twelve years ago.

Judge Mazzant further ruled, the increase to the 40th percentile of all weekly earnings in the United States will effectively eliminate the exception in the U.S.'s labor law for “bona fide executive, administrative or professional” employees.

The U.S. D.O.L. must further examine the duties of employees to determine who fits the exception by raising the cap so high, according to the release. Judge Mazzant also stated, “the U.S. Department of Labor exceeded its delegated authority and ignored Congress’ intent by raising the minimum salary level such that it supplants the duties test.”

The injunction halts enforcement of the rule until the litigation is concluded. Therefore, the previous Overtime rules that are currently in place remain in effect. The decision is currently being appealed.

Assistant District Director David Marin from U.S. Department of Labor, Wage and Hour Division [gave presentations at the conference](#) on the Fair Labor Standards Act in the territory earlier this week. Mr. Marin explained to conference attendees that due to the injunction the new rule could not be enforced.

For more information regarding the Final Rule on overtime, contact Ms. Gwen Steele, Labor Relations Specialist at 340-773-1994 extension 2124 or you may visit www.vidol.gov or www.dol.gov/whd/overtime/final2016/.