

# MARK SHOFFNER COMMENTS TO LAW360 ON NEW DOL OVERTIME RULE

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**Partner Mark A. Shoffner is quoted in Law360's article titled, "4 Takeaways As DOL Finalizes Overtime Rule." The article offers a variety of legal commentary on the U.S. Department of Labor's (DOL) recently issued final rule on overtime eligibility under the Fair Labor Standards Act (FLSA). The DOL increased the salary threshold for employees eligible for overtime to at or below \$35,568/year from \$23,660/year.**

In the piece, labor and employment specialists predicted that the new OT rule may be challenged in court, similar to the Obama administration's proposal. Other identified concerns are the limited time to comply and the disproportionate impact on education, wholesale, retail and professional service businesses.

Shoffner commented that it is "welcome news" for employers that the job duties test remained untouched under the new OT rule. Although the rule adjusts the salary level to qualify for the FLSA's Executive/Administrative/Professional exemptions, the DOL did not alter the duties test, which is the other key component to determine whether an employee is exempt from the overtime rules.

"The duties test is so fraught with uncertainty — there are so many gray areas in the duties test — that I think if both the salary issue and the duties issue were thrown into the mix at the same time, compliance would be more difficult. All in all, I think it's a net positive for employers that the DOL didn't touch the duties test here," said Shoffner.

To read the full article, please click [here](#) (subscription required).

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