

CONSTRUCTION LAW NEWSLETTER

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TRENDS IN CONSTRUCTION LAW

On August 31, 2017, a federal judge in Texas ruled that the federal Department of Labor exceeded its authority when it doubled the minimum salary levels for exempt executive, professional and administrative employees under the Fair Labor Standards Act.

The decision stated that the DOL's new overtime rule effectively eliminated a consideration of whether an employee performs bona fide executive, administrative or professional capaci-

ty duties.

Important to this decision was that the DOL was required to consider an employee's duties in making its exemption determination, not just salary.

Despite this federal court decision, it should be noted that New York State increased the white collar overtime exemption threshold for upstate employers to \$727.50 per week (\$37,830 annually) effective January 1, 2017. The threshold will increase again to \$780 per week on January 1, 2018, to \$832 per week



on January 1, 2019, to \$885 per week on January 1, 2020, and to \$937.50 per week on January 1, 2021.

CASE LAW UPDATE

On July 27, 2017, the Third Department Appellate Division decided the case of *Ridely Electric Company, Inc. v. Dormitory Authority of the State of New York*. The case involved an electrical contractor who entered into a prime contract with DASNY to perform electrical work on the NYS Veteran's Home for a base price of approximately \$5 million.

The contractor encountered difficulties completing the

work due to the ceiling design. DASNY made various adjustments in the design to accommodate for these issues.

Upon completion of the work, the contractor submitted change orders for extra compensation associated with the ceiling work.

The contract required that claims for compensation associated with extra work were required to be submitted within 15 days of the

date they arose and documented within 30 days of the claim submission. The contract also stated that failure to follow the claims procedure constituted a waiver of the right to extra compensation.

Relying on the contractual claim procedure, the Supreme Court dismissed the contractor's claim for extra compensation and the Appellate Division affirmed the decision.

Jordan R. Pavlus, Esq.
Email: jpavlus@bcplegal.com

Zea M. Wright, Esq.
Email: zwright@bcplegal.com

Gregory P. Bazan, Esq.
Email: gbazan@bcplegal.com



Byrne, Costello & Pickard, P.C.

ATTORNEYS AT LAW

Tower I, Suite 1600
100 Madison Street
Syracuse, New York 13202

PHONE 315/474-6448
FAX 315/424-8556

Website: www.bcplegal.com

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