

New Overtime Rule: What it Means for the Media Industry and the Industry's Response

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Update: On November 22, 2016, U.S. District Judge Amos Mazzant issued a preliminary injunction in *Nevada et al. v. U.S. Dep't. of Labor et al.*, Civil Action No. 4:16-CV-00731, 2016 WL 6879615, in the U.S. District Court for the Eastern District of Texas, blocking the DOL overtime regulation from taking effect on December 1, 2016. Judge Mazzant found that the plaintiffs showed a likelihood of irreparable harm and success on the merits on their claim that the DOL exceeded its authority in establishing the new salary threshold and the automatic updating mechanism. The preliminary injunction will preserve the status quo while the parties await a final decision on the rule's validity. The ruling is available [here](#).

The Department of Labor's (DOL) Final Rule on overtime is set to take effect December 1, 2016, and could qualify many more journalists, photographers, and other creative professionals for overtime pay under the Fair Labor Standards Act (FLSA). The FLSA requires employers to pay employees at least the minimum wage plus overtime pay (time-and-a-half) for every hour worked over 40 hours in a given week.

However, there are many exemptions to these requirements, including one for an individual employed in a "creative professional" capacity. A creative professional is exempt from the FLSA's minimum wage and overtime requirements so long as he or she (1) earns at least \$455 per week; and (2) has a primary duty of performing work that requires "invention, imagination, originality, or talent in a recognized field of artistic or creative endeavor." This salary basis, however, is about to increase dramatically. Under the DOL's Final Rule, the minimum salary basis for exempt employees will more than double, pulling many more professionals—those who earn less than \$913 per week (or \$47,476 per year)—into the nonexempt category and qualifying them for mandatory overtime pay.

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[New-Overtime-Rule.PDF](#)