

DOL to Appeal Ruling That 2016 Overtime Rule Exceeded Its Authority

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The DOL will appeal a Texas federal court's ruling that the Obama administration's 2016 overtime rule exceeded the DOL's authority. The appeal comes nearly two months after the DOL [dropped](#) an earlier appeal of that court's [preliminary injunction](#) on the same topic.

The 2016 [overtime rule](#) would have required employers to pay most executive, administrative, and professional employees at least \$913 per week in order to exempt them from the overtime pay requirements—more than doubling the current weekly salary threshold of \$455. Judge Amos Mazzant's preliminary injunction in November 2016 invalidated the new overtime rule on a nationwide basis, [concluding](#) that the DOL exceeded its authority by increasing the salary threshold so dramatically so as to effectively eliminate the "duties test" for exemption required by the Fair Labor Standards Act (FLSA).

In August 2017, Judge Mazzant granted [summary judgment](#) to the plaintiffs in the overtime rule challenge, permanently invalidating the 2016 rule. Judge Mazzant concluded that the \$913 threshold "would essentially make an employee's duties, functions, or tasks irrelevant" and that the overtime status of "entire categories of previously exempt employees" would "depend predominately on a minimum salary level." Judge Mazzant also concluded that the DOL exceeded its statutory authority by including a provision in the 2016 overtime rule that would have automatically updated the salary level every three years. The DOL's latest appeal targets this summary judgment order.

The DOL was quick to [clarify](#) to the Wall Street Journal that its latest appeal is not an endorsement of the salary level in the 2016 overtime rule, but is only intended “to maintain Secretary Alexander Acosta’s ability to establish overtime regulations.” Earlier this year, the DOL sought [public comment](#) on a revised overtime rule. Secretary Acosta’s [statements](#) in June 2017 indicated that the DOL may be considering a salary level of about \$635 per week.

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