



# Everything You Thought You Knew about Overtime May Be Wrong

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Originally the FLSA, which was passed in 1938, was designed to urge Depression-era bosses to hire more employees. However, as the workplace has shifted from manufacturing to services, the law's archaic "white collar" exemptions, which were last updated in 1949, have failed to keep pace. As a result, the DOL crafted the revised regulations in 2004 in an effort to more accurately reflect today's workforce. Unfortunately, in terms of the construction industry, the exemption issue can be a gray area for certain employees. While some clearly fit under the nonexempt status, others are more difficult to pinpoint.

To avoid litigation, there are steps you must take to ensure that you are properly classifying a supervisor as an exempt employee. Knowing the key issues that cause concern in these overtime lawsuits is the first step toward compliance. While some wage and hour questions are easy to answer, it is the more pressing gray exemption areas in the construction industry that require addressing. To the surprise of many construction companies, determining who is and is not exempt requires much more effort than just figuring out who is salaried. The employer must also weigh issues of job duties, pay arrangements, responsibilities and the ability to make independent decisions.

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