

# SALARIED DISTILLER SUES BREWERY CLAIMING ENTITLEMENT TO OVERTIME

*Wine Beer & Spirits Alert*  
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An overtime lawsuit recently filed in the Western District of New York illustrates the importance of correctly classifying employees under the Fair Labor Standards Act and New York State Labor Law. The complaint seeks unpaid overtime and minimum wages on behalf of a former distiller at Finger Lakes Distilling. The distiller alleges that although he earned an annual salary of \$45,000.00, he is owed overtime for the approximately 110 hours per week that he worked from about June 2012 to January 2016. He claims he is owed \$119,060.72 in unpaid wages and liquidated damages, plus attorneys' fees, costs, and prejudgment interest.

To properly classify workers as "exempt," meaning that they are not entitled to time-and-one-half overtime pay for hours worked over 40 in a week, an employer generally must be able to demonstrate that the employee (1) is paid a certain minimum salary, on a salary basis, and (2) has as his or her primary duty, the performance of exempt duties that satisfy the specific requirements of a particular overtime exemption. The second requirement is one that some may not appreciate, believing that payment of a salary is alone sufficient to render an employee exempt.

In this case, the former distiller alleges that he did not have exempt duties as his or her primary duty, and thus, is owed overtime pay. While the former distiller's claims are only allegations at this juncture, employers in the wine, beer, and spirit production industry should take this opportunity to ensure that the employees they treat as exempt are properly classified as such because the potential liability for each misclassified employee can be substantial, as this case illustrates.

If you have any question about whether particular employees truly qualify as overtime exempt or the other rules regulating the compensation of employees, please contact one of the attorneys in our Wine, Beer & Spirits Practice Area.

## Attorneys

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## Practices & Industries

Labor & Employment

Wine, Beer & Spirits