

WAGE AND HOUR UPDATE: FEDERAL APPEALS COURT INTRODUCES “RELATIONAL ANALYSIS” TEST FOR FLSA ADMINISTRATIVE EXEMPTION

Insights
Feb 1, 2023

Employers operating in certain states should note that the 1st U.S. Circuit Court of Appeals just provided some clarity on the Fair Labor Standards Act’s (FLSA’s) administrative exemption. A federal appeals court held that the proper test for determining whether a worker is an “administrative” employee is a “relational analysis” between an employee’s job duties and the employer’s business purpose. The January 11 decision serves as an important refresher for employers in Maine, Massachusetts, New Hampshire, Rhode Island, and Puerto Rico on how to successfully designate certain administrative employees as exempt from overtime compensation – and might provide guidance to employers elsewhere in the country. What does your business need to know about the ruling in *Walsh v. Unifit Service Corporation*?

Administrative Exemption 101

Most employees are entitled to overtime pay at a rate of 1.5x the employee’s regular rate for any work in excess of 40 hours in a single workweek. However, there are numerous exemptions to this requirement, including the “administrative” exemption.

An “administrative” employee is exempt from the FLSA’s overtime requirement if an employer can satisfy the following three criteria:

- the individual is paid on a salary basis of at least \$684 per week;

Related People



Joshua D. Nadreau

Regional Managing Partner
and Vice Chair, Labor
Relations Group

617.722.0044

Service Focus

Wage and Hour

Related Offices

Boston

Portland, ME

- the individual's primary duty is directly related to the management or general business operations of their employer or its customers; and
- the individual's primary duty includes the exercise of discretion and independent judgement over significant matters.

To help employers navigate the second prong of the administrative exemption, the U.S. Department of Labor (DOL) has issued [additional regulations](#) defining key terms and providing *examples* of work that might be considered administrative.

Dispute About Overtime Wages

In 2019, DOL filed suit against Unitil Service Corporation alleging violations of the FLSA's overtime compensation requirements for failing to pay overtime wages to the company's dispatchers and controllers.

The lower court ruled in favor of Unitil, focusing on the second prong of the administrative exemption. Specifically, the court found the workers' primary duties were directly related to Unitil's general business operations because the workers' duties were "comparable" to those listed in the DOL's regulations as examples of work that might be considered "administrative." DOL appealed.

1st Circuit Vacates District Court Decision

On appeal, the 1st Circuit Court of Appeals clarified that determining whether the second prong of the administrative exemption is met requires a "relational analysis" between the employee's job duties and the employer's business purpose. Thus, the second prong contains two additional sub-parts:

- whether the individual's primary duties relate to "running or servicing" the business operations of their employer or its customers, and if so,
- what the scope or "generality" of the individual's role entails.

The 1st Circuit noted that the dispatchers' and controllers' duties could relate to "running and servicing" Unitil's business operations, and therefore, could be considered "administrative." However, the appeals court held that these

seemingly administrative duties only implicated “administrative” work in a “limited or superficial way,” and thus did not rise to the level of “generality” required by the second prong. Instead, the court **found** that the employee’s “routine” work was not sufficiently high-level to qualify for the exemption.

What Do Employers Need to Know?

The 1st Circuit’s decision in *Unitil Serv. Corp.* adds some much-needed judicial gloss to the realm of hyper-technical overtime exemptions under the FLSA. At the same time, the decision is a good reminder of how much gray area exists for employers attempting to comply with federal overtime regulations — and the need to tread carefully when designating employees as exempt.

Employers should continue to exercise caution and confer with employment counsel when determining whether an employee is exempt from overtime compensation.

We will continue to monitor further developments and provide updates on this and other labor and employment issues, so make sure you are subscribed to [Fisher Phillips’ Insight System](#) to gather the most up-to-date information. If you have questions, please contact your Fisher Phillips attorney, the [author](#) of this Insight, or any attorney in our [Boston office](#).

The author would like to thank Law Clerk [Anna Olsson](#) for her significant contributions to this Insight.