Supreme Court Gives Dealerships The Green Light: Service Advisors Are Exempt From FLSA Overtime Requirements

Insights
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The Supreme Court today handed auto dealerships—especially those on the west coast—a long-awaited 5-4 victory by holding that service advisors are exempt from the Fair Labor Standards Act's overtime-pay requirement because they are "salesm[en]...primarily engaged in... servicing automobiles." The ruling returns the law to the place it had been for decades prior to a stunning and controversial 2011 agency decision that upended what had been standard practice at many dealerships.

The Supreme Court's ruling today brings finality to a legal battle that had contained more twists and turns than a Formula One race track, including two separate trips to the Supreme Court by a dealership represented by attorneys from the Fisher Phillips Automotive Dealership Practice Group (*Encino Motorcars, LLC v. Navarro)*.

Start Your Engines: The Long Race To The Supreme Court
For several years, an interpretative tug-of-war took place between courts across the country and the U.S. Department of Labor (USDOL) regarding whether a dealership's service advisors should be exempt from overtime under the Fair Labor Standards Act (FLSA). For those not in the industry, a service advisor is responsible for the intake of customers who enter the service area of a dealership. The intake process includes the service advisor evaluating the customer's complaints, determining the service needs of the vehicle, and selling supplemental services beyond those that would directly address the customer's complaint.

For several decades, the USDOL interpreted the FLSA to exempt service advisors from overtime requirements. The agency relied upon the portion of the statute that provides an exemption for "any salesman, partsman, or mechanic primarily engaged in selling or servicing automobiles." Obviously, there is no specific mention of "service advisors" in this section of the statute, but the agency agreed with numerous lower courts in determining that service advisors fell within the exemption.

Then, in 2011, the USDOL unexpectedly backtracked and determined that service advisors were generally not exempt. The agency limited its interpretation of the FLSA to exempt only salesmen who sold automobiles (not services) or service technicians who worked on vehicles. According to the USDOL, including service advisors in the exemption would contradict the language of the statute.

And so a group of service advisors relied upon that agency interpretation and sued their dealership employer seeking unpaid overtime and penalties. In a 2015 decision, the 9th Circuit Court of Appeals (with jurisdiction over federal cases arising from California, Washington, Nevada, Arizona, Oregon, Alaska, Hawaii, Idaho, and Montana) described the USDOL's radical position change as "rationally explained" and supported by history showing that it had given the issue "considerable thought." The appeals court ruled that service advisors were not exempt from overtime, following the USDOL's guidance.

The dealership did not let the matter rest, and battled its way to the Supreme Court in 2016. But with only eight justices presiding at the time due to the death of Justice Scalia, the court did not render a decision on the merits. Instead, it remanded the case to the 9th Circuit Court of Appeals and directed the appeals court to interpret the exemption's statutory language with no deference given to the USDOL's interpretation.

In 2017, the 9th Circuit once again ruled that service advisors were not exempt from the FLSA's overtime requirements. For a second time, the dealership asked the Supreme Court for relief. This time around, with a fully constituted complement of nine justices, the Court granted dealerships their wish—a final decision ruling that service advisors are exempt from federal OT law.

Three Lefts Make A Right: The Supreme Court's Decision

In today's ruling, the Supreme Court rejected the 9th Circuit's 2016 decision and affirmed the long-standing decisions of several other courts across the country that had determined that service advisors are exempt from the FLSA's overtime requirements. The majority opinion, drafted by Justice Clarence Thomas, determined that services advisors fall under the exemption even though they do not personally go under the vehicle's hood. Instead, the Court agreed that exempt status was justified because service advisors are primarily engaged in servicing automobiles vis-à-vis their sales of those services.

The Court rested its decision on the plain language of the statute, which it explained, "has long been understood to cover services advisors." The Court concluded that Congress' inclusion of specific language in the statute meant that a salesman who primarily engages in servicing automobiles is exempt, and service advisors fall within that description.

What reads like an English grammar exercise in diagraming sentence structure, the Court began with the first uncontroversial premise that service advisors are salesmen. It then determined that service advisors are primarily engaged in both dictionary definitions of "servicing," such that they satisfy the exemption under the statute. It importantly noted that the "primarily engaged in . . . servicing automobiles" applies to both partsmen and service advisors.

The Supreme Court also handed employers across all industries a potentially significant victory by rejecting the oft-invoked principle that FLSA exemptions should be interpreted narrowly. Noting that the FLSA's text provides no suggestion that it should be construed in such a restrictive manner, the Court announced the "narrow construction principle relied on the flawed premise that the FLSA

Court announced the "narrow-construction principle relied on the flawed premise that the FLSA 'pursues' its remedial purposes at 'all costs'." Thus, the Court made clear that a court's role in reading FLSA exemptions is not to give them a "narrow" reading but a fair one.

This rejection of the "narrow reading" of FLSA exemptions should soon affect a whole host of FLSA exemption cases. The rejection of the anti-exemption canon means that the judicial thumb should now be off the scale when employers fairly assert that employees are overtime exempt under the FLSA.

Now That The Fight Is In The Rearview Mirror, What Does This Mean For Dealerships?
Today's Supreme Court's decision ratifies roughly 40 years of established pay practices for the approximately 100,000 service advisors employed at dealerships throughout the United States. You can now confidently treat these employees as exempt from overtime requirements under the FLSA.

For more information, contact your regular Fisher Phillips attorney, or any member of our Automotive Dealership Practice Group or our California Appellate Practice Group.

This Legal Alert provides an overview of a specific Supreme Court decision. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.

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