Supreme Court Tunes Up Exemption Analysis in Favor of Employers

by Dennis J. Merley - Tuesday, April 03, 2018

The United States Supreme Court has just issued an important ruling that may be very narrow in its application – service advisors in car dealerships are exempt from overtime – but is extremely broad in its favorable implications for employers.

Service advisors typically greet customers as they bring their vehicles in for repair. They hear the customer's concerns, evaluate the vehicle's service needs and then usually try to sell other additional services that can be accomplished at the same time that the technicians are addressing the primary maintenance or repair issue.

Service Advisors Are Now Exempt

For many years, the United States Department of Labor (DOL) considered service advisors to be exempt under specific language in the Fair Labor Standards Act (FLSA) exempting "any salesman, partsman, or mechanic primarily engaged in selling or servicing automobiles." In 2011, however, the DOL switched gears and steered the exemption to apply just to people who actually sold or worked on the cars. Service advisors therefore were considered nonexempt and entitled to overtime.

Thereafter, a group of service advisors in Encino, CA sued their dealership seeking backpay for

overtime hours that they had worked in the past. After much litigation and multiple appeals (including a first trip up to the Supreme Court and a remand back to the 9th Circuit Court of Appeals), the Supreme Court issued a 5-4 decision in favor of the dealership by reinstating overtime exemption to service advisors. The Court premised this decision on a basic reading of the statute to conclude that even though service advisors neither sell the cars nor perform the actual repairs, they nevertheless are primarily engaged in the servicing process because they determine and sell those services to the customer. As such, they meet the exemption language cited above.

Why All Employers Should Pay Attention

Great news for car dealerships but also good news for employers of all sorts because the Supreme Court also rejected the long-held mandate that FLSA exemptions must be interpreted narrowly. The declared that they need not honor the remedial nature of the law “at all costs” and that the customary narrow interpretation must give way to a “fair reading” of the exemption language.

This new “fair reading” standard bodes well for future arguments in favor of exempt status since it removes what essentially had been a presumption in favor of finding that exemption does not apply. Now, courts may employ more of a balancing test between the competing arguments and interests of the parties to the case.

Indeed, this decision could even slow down the rush of collective actions by employees claiming to have been misclassified since the court certification of groups to move forward collectively often is premised, at least in part, on the recognition of the remedial purpose of the law.

Bottom Line

It may take a while for the impact of this decision to be felt but it will be a welcome change when it happens. Employers have always had an uphill battle in proving exempt status because of the admonishment to observe the remedial purpose of the law. The new “fair reading” standard should provide a smoother road for employers going forward.

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