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SUPREME COURT REJECTS PRINCIPLE OF NARROW CONSTRUCTION FOR FLSA EXEMPTIONS

In a new decision, *Encino Motorcars, LLC v. Navarro et al.*, the U.S. Supreme Court has rejected over 50 years of precedent requiring FLSA exemptions to be narrowly construed against the employers seeking to assert them. Instead, the Court held that because the FLSA gives no textual indication that its exemptions should be construed narrowly, they should be given a "fair reading." While the ruling determined that service advisers employed at car dealerships are exempt from overtime under the FLSA, the Court's decision signals a far broader application of many FLSA exemptions.

The new case involved a Mercedes-Benz dealership in California that was sued by a group of current and former service advisors for overtime pay. The dealership argued that the service advisers fell under the FLSA overtime exemption for "any salesman, partsman, or mechanic primarily engaged in selling or servicing automobiles, trucks, or farm implements." Eventually, the Ninth Circuit Court of Appeals sided with the workers, finding that the exemption did not cover service advisors. The Ninth Circuit also deferred to a 2011 Department of Labor ("DOL") rule that interpreted "salesman" to exclude service advisors. The U.S. Supreme Court ultimately vacated that judgment, holding that the DOL rule was procedurally defective, and remanded the case back to the Ninth Circuit to decide whether, without deference to the DOL rule, the exemption covered service advisors. On remand, the Ninth Circuit held again that the exemption does not cover service advisors. The primary reason for that decision was the Ninth Circuit's reliance upon the courts' standard practice of construing FLSA exemptions narrowly.

The Supreme Court was not persuaded by any of the reasons advanced by the Ninth Circuit for its decision, and held 5-4 that service advisors are covered by the exemption. Most significantly, the Court voiced its disagreement with the Ninth Circuit's position that FLSA exemptions must be narrowly construed, stating: "Because the FLSA gives no textual indication that its exemptions should be construed narrowly, they should be given a fair reading."

The Court's new "fair reading" principle will make it easier for employers to defend claims that they misapplied an exemption. Previously, an employer could not prove

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that an exemption applied unless the language in the FLSA explicitly stated that a position was exempt. Employers still have the burden of proving that their application of an exemption is proper, but they will now be able to rely upon not only the statutory language involved, but also the intent of the exemption and industry practice.

Also, while this case involves automobile service advisors, the new construction standard will be applied to any FLSA exemption, *e.g.*, the so-called white collar exemptions for executive, administrative and professional employees. It may also be applied to the DOL's regulations interpreting the exemptions. This new interpretation principle may also make it more difficult for employees to pursue class actions based on their being misclassified as exempt. The full impact of this decision in wage and hour cases remains to be seen; however, it most likely will change how the lower courts interpret the application of FLSA overtime exemptions. Employers should be mindful that state exemptions, such as those in California, may be interpreted differently than under the FLSA, even when the exemptions appear to be the same.

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