

Employer Alert

THE SUPREME COURT BREATHES NEW LIFE INTO THE ADMINISTRATIVE EXEMPTION FROM OVERTIME

By Christine A. Page, Esq.

In California, employers don't often have occasion to celebrate court decisions, especially when it comes to wage and hour issues like overtime exemptions. But the California Supreme Court has recently issued a decision that has the potential to expand the kinds of jobs which qualify for exemption from overtime.

This decision concerns the administrative exemption, the least understood and most litigated of all exemptions. Generally speaking, an employee fits the administrative exemption from overtime if (1) the employee performs administrative work, defined as office or non-manual work "directly related to management policies or general business operation of his/her employer or his/her employer's customers," (2) the employee customarily and regularly exercises discretion and independent judgment, and (3) the employee receives a minimum monthly salary of at least twice the minimum wage.

Until recently, it was nearly impossible to determine with confidence whether certain employees in service-oriented businesses such as *asset management analysts*, *financial advisors*, and *claims adjusters* satisfied the first prong of the administrative exemption because of something the courts called the "administrative/production dichotomy." This archaic doctrine tended to restrict the types of qualifying positions in service-oriented industries to high level management. In the case at hand, *Harris v. Superior Court (Liberty Mutual)*, the administrative/production dichotomy caused the court of appeals to conclude that insurance claims adjusters were non-exempt simply

because they performed the "production work" of an insurance company, i.e., investigating, adjusting, and settling claims.

The Supreme Court rejected this test as outmoded, preferring to focus on the extent to which an employee's work "involves advising management, planning, negotiating, and representing the company." While it declined to provide any brighter-line test, it made clear that service-oriented positions can qualify even though the employee is involved in offering the very service that the business was created to provide.

This is definitely a step in the right direction! Any employers wishing to revisit their classification of employees under the administrative or other exemption should contact Christine Page at (310) 393-4000 or via email at cpage@gilchristrutter.com.



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