KANE RUSSELL COLEMAN LOGAN

One Mission. Your Mission.

Supreme Court Rules Auto Dealership Service Advisors are Exempt from Overtime

Employment Law, FLSA, HR Policies & Procedures, Wage and Hour / April 3, 2018

The United States Supreme Court issued an opinion on April 2, 2018 that Service Advisors working at a California Mercedes Benz dealership were exempt from the Fair Labor Standards Act and not entitled to overtime. In a 5-4 opinion, the Court held that the statutory exemption for “any salesman, partsman, or mechanic primarily engaged in selling or servicing automobiles” applied to the Service Advisors that interact with customers who bring their vehicles in for service at the dealership. The dispute centered around whether this exemption applied to a position that was not directly engaged in either "selling" or "servicing" automobiles. Justice Thomas wrote the opinion and was joined by Justices Roberts, Kennedy, Alito and Gorsuch (the “conservatives”), and focused on the fact that the Service Advisors engage in sales activities by attempting to have the customers purchase additional maintenance services, and therefore were “salesmen...primarily engaged in...servicing automobiles." The liberal justices (Ginsberg, Breyer, Kagan, and Sotomayor) wrote a dissent that opined that the Service Advisors should not be exempt and should be paid overtime because they were not employed to sell cars or perform the “under the hood” work done by mechanics.

A couple of takeaways from this opinion. First, on the micro level, if you are an automobile dealership that employs Service Advisors, the job duties and job descriptions should emphasize the sales activities required by Service Advisors. This was a critical focus in determining the applicability of the language contained in the exemption. Second, and on a more important macro level, the Court is establishing a trend that it will decide closely-contested cases along “party” lines. Justice Gorsuch just joined the court last year, and while widely viewed as moderate conservative, he has consistently joined the “right-leaning” Justices in numerous closely-contested opinions. The Court also importantly shucked the historical precedent of interpreting FLSA exemptions narrowly, stating instead that the language of the exemptions should be given a "fair reading" rather than an unnecessarily strict or narrow interpretation. The Court's patterns and conservative approach can also be a solid indicator for upcoming employment opinions, including whether or not arbitration and class action waivers will be enforceable in the employment context.

Related Practices

Labor & Employment