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FLSA Exemptions Should be Given a "Fair Reading," Not Construed Narrowly

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On Monday, April 2, 2018, the United States Supreme Court—in a 5-4 decision in *Encino Motorcars, LLC v. Navarro*[1]—rejected the narrow approach lower courts have taken in construing the exemptions set forth in the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq*. Recognizing that the FLSA has over two dozen exemptions in Section 213(b) alone, the Court opined that "[t]hose exemptions are as much a part of the FLSA's purpose as the overtime-pay requirement . . . . We thus have no license to give the exemption[s] anything but a fair reading."[2]

Encino Motorcars was before the Court for a second time on claims for overtime brought by automobile dealership service advisors. In *Encino I*, the Supreme Court vacated a Ninth Circuit decision that had reinstated the service advisors' complaint. In its 2016 opinion, the Supreme Court decided that the Ninth Circuit decision was flawed because it was based on a 2011 Department of Labor rule interpretation that the Court found procedurally defective, and the high court returned the case for additional briefing before the Ninth Circuit.[3]

In Monday's decision, the Supreme Court again rejected the position of the Ninth Circuit, which had again reinstated the service advisors' complaint after finding that the salesman exemption in Section 213(b) did not cover such positions. In reversing, the Court found specifically that service advisors are exempt from the overtime-pay requirements of the FLSA pursuant to the exemption found in Section 213(b)(10)(A).[4] In reaching this conclusion, a majority of the Court rejected each basis for the Ninth Circuit's view, which had relied upon (i) a plain reading of the statutory text; (ii) principles of narrow construction of FLSA exemptions; and (iii) legislative history.

With regard to arguments based on legislative history, the Court found that "silence in the legislative history, 'no matter how clanging,' cannot defeat the better reading of the text and statutory context."[5] Instead, the Court found a better reading of the statute was that service advisors fell under the salesman exemption, and the failure to specifically enumerate that position in the statutory text was not a bar to that conclusion.[6]

More than creating a certain exemption regarding a particular class of automobile dealership employees, *Encino II* will more likely be cited for the Court's emphatic

rejection of the practice of narrowly construing FLSA exemptions. In rejecting that approach, the Court found that "the FLSA gives no 'textual indication' that its exemptions should be narrowly construed," and such a practice "relies on the flawed premise that the FLSA 'pursues' its remedial purpose 'at all costs.'"[7] As a result of the Court's ruling that FLSA exemptions should be examined under a "fair (rather than narrow) interpretation,"[8] it may now be easier to argue that certain employment positions are covered by exemptions under the statute.

Endnotes

1 No. 16-1362, slip op. at 9 (April 2, 2018).

2 *Id.*

3 *Encino I,* 136 S. Ct. 2117 (2016).

4 *Encino II*, No. 16-1362, slip op. at 11.

5 *Id.*

6 *Id.*

7 *Id.* at 9.

8 *Id.*

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