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SUPREME COURT TAPS BRAKES ON OVERTIME CLAIMS, HELPS EMPLOYERS AGAINST DEPARTMENT OF LABOR

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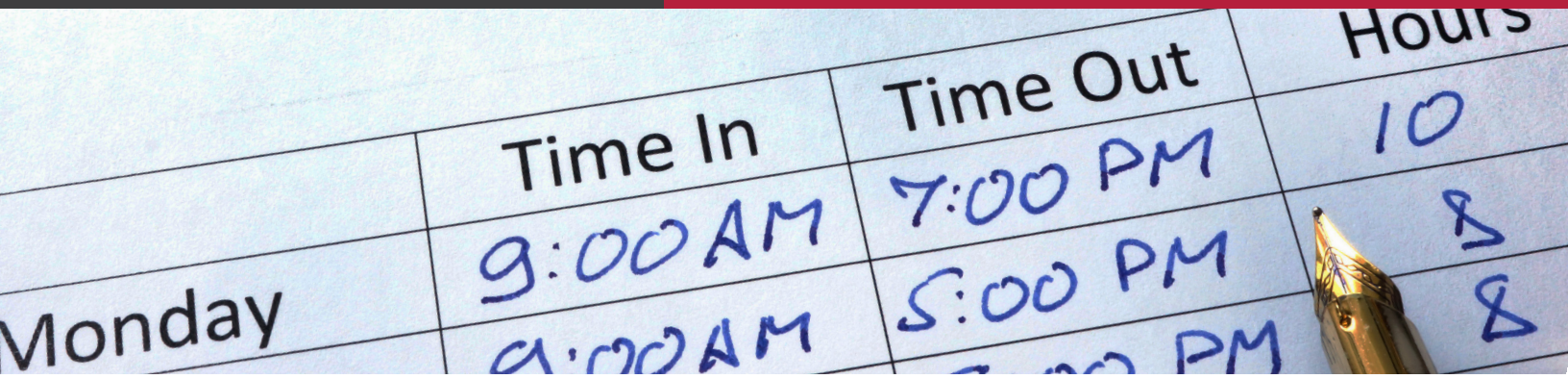

On April 3, 2018, the Supreme Court struck a blow for employers against the Department of Labor (DOL) by broadly interpreting overtime exemption rules.

Employees who meet certain work criteria may be exempted by employers from receiving overtime pay for work over 40 hours a week. Congress passed these exemptions many years ago, but the DOL wants to interpret the exemptions narrowly in keeping with their procedures, past precedent, and internal guidance. Consequently, DOL investigators often very, very narrowly interpret who meets the exemption criteria during employer audits. Then, the DOL issues penalties and past overtime assessments against the employer for employees it deems non-exempt.

The new decision will give employers new ammunition to push back on the DOL during these audits using the Court's requirement "fair reading" of exemptions.

Here are the details:

Service advisors at a Mercedes-Benz dealership in California sued their employer (*Encino Motorcars v. Navarro*) because they were not paid overtime. The dealership countered that the employees should be exempt from overtime under an exemption related to salesman and mechanics for cars.

The lower court followed a 2011 DOL rule interpreting the exemption very narrowly and found that the service advisors were not exempt. The Supreme Court did not feel constrained to follow the DOL interpretation and insisted that employers are entitled to a "fair reading" of the exemptions from overtime and reaffirmed that courts are required to make their own analysis rather than relying on DOL interpretations.

Using the "fair reading" interpretation the Supreme Court found that service advisors could be exempt because they "meet customers, listen to their concerns about their cars, suggest repair and maintenance services, sell new accessories or replacement parts, record service orders, follow-up with customers as the services are performed (for instance, if new problems are discovered), and explain the repair and maintenance work when customers return for their vehicles." Taking all of the job duties into consideration, a 5-4 majority of the Supreme Court held that "service advisors are exempt from the overtime-pay requirement of the FLSA because they are "salesmen primarily engaged in servicing automobiles."

End Result:

Employers should keep the *Encino Motorcars v. Navarro* decision in mind as they make decisions on who meets the exemptions from overtime and in the event the DOL shows up for an audit. Note we strongly encourage you to consult your in-house counsel or a law firm before making a change to any employee groups' exemption status.

ABOUT THE AUTHORS

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Michael focuses his practice on the employment law needs of Texas businesses and executive employees. To help avoid the cost and expense of litigation, he utilizes his experience in and out of the courtroom to prevent or quickly resolve employment disputes through proactive employer planning and timely advice. When a dispute cannot be avoided, Michael relies upon his extensive experience in employment and commercial lawsuits to secure favorable resolutions for his clients. He earned his J.D. from Baylor University School of Law.

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