



## Supreme Court Says Car Dealership Service Advisors Are Exempt From FLSA Overtime Pay Requirements

*Encino Motorcars, LLC v. Navarro*,  
No. 16-1362

Decided April 2, 2018

Today, the Supreme Court held 5-4 that car dealership service advisors are exempt from the Fair Labor Standards Act's requirement to pay overtime.

### Background:

The Fair Labor Standards Act (FLSA) contains an exemption from its overtime-pay requirements for "any salesman, partsman, or mechanic" who is "primarily engaged in selling or servicing automobiles." 29 U.S.C. § 213(b)(10)(A). Service advisors are car dealership employees who meet with customers, identify their service needs, and sell them services for their vehicles. They sued, claiming that they are entitled to overtime pay under the FLSA.

### Issue:

Whether service advisors at car dealerships are exempt from the Fair Labor Standards Act's overtime-pay requirements.

### Court's Holding:

Yes, service advisors are exempt because they qualify as "salesmen . . . primarily engaged in . . . servicing automobiles" under the FLSA.

*"If the text is clear, it needs no repetition in the legislative history; and if the text is ambiguous, silence in the legislative history cannot lend any clarity."*

Justice Thomas,  
writing for the majority

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## What It Means:

- The Court's analysis was straightforward: The ordinary meaning of "salesman" is "someone who sells goods or services," and service advisors sell customers services for their vehicles. The Court also concluded that service advisors are "primarily engaged in . . . servicing automobiles," even though they do not repair the vehicles themselves, because they are "integrally involved in the servicing process."
- The Court rejected the frequently-stated view that FLSA exemptions should be construed narrowly because the FLSA is a remedial statute. The FLSA gives no "textual indication" that the exemptions should be construed narrowly, and the exemptions are "as much a part of the FLSA's purpose as the overtime-pay requirement."
- The decision today finally resolves the question whether service advisors are exempt from the FLSA's overtime-pay requirement. Service advisors generally were regarded as exempt until the Department of Labor changed course in 2011 and issued a regulation that interpreted "salesman" to exclude service advisors. The question reached the Supreme Court in 2016, but the Court did not decide the issue, holding only that the Department of Labor's regulation was not entitled to deference because the agency failed to sufficiently explain why it had changed position in 2011. *See Encino Motorcars, LLC v. Navarro*, 136 S. Ct. 2117 (2016).

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Gibson Dunn's lawyers are available to assist in addressing any questions you may have regarding developments at the Supreme Court. Please feel free to contact the following practice leaders:

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