



# COMPLIANCE BULLETIN

## Supreme Court Rules Service Advisors Exempt from FLSA Overtime Rules

### OVERVIEW

On April 2, 2018, the U.S. Supreme Court ruled that **service advisors**—employees at car dealerships who consult with customers about their servicing needs and sell them servicing solutions—are **exempt from the Fair Labor Standards Act (FLSA) overtime pay requirements**.

In its ruling, the court determined that the FLSA’s overtime pay exclusion for salesmen, partsmen and mechanics also covers service advisors. This decision follows a Department of Labor (DOL) [final rule](#) issued in 2011 that changed its interpretation of “salesman” to exclude service advisors.

### ACTION STEPS

As a result of the Supreme Court’s ruling, car dealerships that employ service advisors are no longer required to pay overtime for these employees under the FLSA.

**However, these employees may still be eligible for overtime pay under state law in some circumstances.**

### HIGHLIGHTS

- The U.S. Supreme Court ruled that service advisors working for car dealerships are exempt from FLSA overtime pay requirements.
- As a result, service advisors are no longer eligible for overtime pay under the FLSA.
- However, these employees may still be eligible for overtime pay under state law.

### IMPORTANT DATES

#### April 2, 2018

The U.S. Supreme Court ruled that service advisors working for car dealerships are exempt from FLSA overtime pay requirements.

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## DOL Overtime Exemptions

The FLSA establishes minimum wage and overtime pay protections for many workers in the United States. However, the FLSA exempts certain workers from these protections. When passed initially, the FLSA exempted all employees at car dealerships from the overtime pay requirement. However, this exemption was narrowed several years later, to include “any salesman, partsman or mechanic primarily engaged in selling or servicing automobiles.”

Over the years, federal courts and the DOL have gone back and forth over whether this exemption covers service advisors. For this purpose, “service advisors” are employees at car dealerships who consult with customers about their servicing needs and sell them servicing solutions.

Most recently, the DOL issued a [final rule](#) in 2011 that changed its interpretation of salesman under the FLSA to exclude service advisors. This final rule indicated that the DOL believed the FLSA requires car dealerships to pay overtime to service advisors.

*In its ruling, the Supreme Court determined that service advisors are exempt from the FLSA’s overtime pay requirement.*

## Supreme Court Ruling

Following the DOL’s 2011 final rule, a number of service advisors in California sued their employer, a Mercedes-Benz dealership, arguing that they were owed back pay for overtime hours worked prior to 2011. The primary issue in the case was whether service advisors could be considered salesmen that fall within the FLSA overtime pay exemption.

In its ruling, the Supreme Court determined that **service advisors are exempt from the FLSA’s overtime pay requirement**, despite the DOL’s 2011 interpretation. According to the court, service advisors are considered salesman that are primarily engaged in servicing automobiles.

Although service advisors do not physically repair automobiles themselves, the court determined that they are integral to the servicing process and would be recognized by the average customer as the person who is servicing their automobile. The court further reasoned that, “[w]hile service advisors do not spend most of their time physically repairing automobiles, neither do partsmen, who the parties agree are ‘primarily engaged in ... servicing automobiles.’”

## Practical Impact

As a result of the Supreme Court’s ruling, service advisors employed by car dealerships are now considered exempt from the FLSA’s overtime pay requirements. This means that car dealerships are no longer required to pay overtime for service advisors under federal law.

However, many states have implemented their own overtime pay requirements that are more restrictive than federal law. **As a result, service advisors may still be eligible for overtime pay under state law in some circumstances.**