

Eleventh Circuit Case An Excellent Primer on the FLSA's Administrative Exemption

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Business development managers, whose job was to convince corporate customers to purchase General Motors vehicles for their corporate fleets, qualified for the administrative exemption from the overtime provisions of the Fair Labor Standards Act (FLSA), the Eleventh Circuit Court of Appeals recently held. *Brown v. Nexus Bus. Solutions, LLC*, 2022 U.S. App. LEXIS 8777 (11th Cir. Apr. 1, 2022). While not establishing new law, the decision nonetheless is an excellent primer on the FLSA's administrative exemption. The Eleventh Circuit has jurisdiction over the federal trial courts in Alabama, Florida, and Georgia.

Background

The FLSA generally requires that employees be paid overtime, at a rate of at least one and a half times their regular rate of pay for all hours worked beyond 40 in a week. 29 U.S.C. § 207(a)(1). However, there are some exceptions to that general rule and one of those is the “administrative” exemption. The requirements of the administrative exemption are easy enough to recite but often difficult to apply. To qualify for the exemption, an employee must (1) be paid, on a salary basis, at least \$684 per week; (2) perform office or non-manual work directly related to the employer's general business operations; and (3) have as a primary duty “the exercise of discretion with respect to matters of significance.” 29 C.F.R. § 541.200(a).

The Lawsuit

In *Brown*, the business development managers did not actually sell vehicles – that was done by local dealerships – but were charged with connecting potential corporate buyers with the local dealers by generating leads and making sales presentations. A group of these managers filed a collective action under the FLSA, asserting that the company had misclassified them as exempt and therefore that they should have been paid overtime for the hours they worked in excess of 40 per week, which were considerable. The employer moved for summary judgment, contending that the business development managers were exempt under both the FLSA's administrative exemption and its outside sales exemption. The trial court denied summary judgment with respect to the outside sales exemption but agreed that the managers qualified for the administrative exemption and granted summary judgment in favor of the company.

The Eleventh Circuit's Decision

The employees appealed and the Eleventh Circuit affirmed the trial court's dismissal. As is common in scenarios involving the administrative exemption, there was no dispute that the first two requirements were met, that is, that the managers were paid at least \$684 a week on a salary basis and that they performed non-manual work related to the company's general business operations. Thus, the focus of the appeal was whether the business development managers' primary duties included the "exercise of discretion with respect to matters of significance."

In concluding that the business development managers did, in fact, possess and exercise such discretion, the Court of Appeals looked to the regulations of the U.S. Department of Labor (DOL) for guidance. The DOL regulations provide when applying the administrative exemption, only those employees who engage in "the comparison and the evaluation of possible courses of conduct, and act[] or mak[e] a decision after the various possibilities have been considered," qualify for the exemption. 29 C.F.R. § 541.202(a). Citing the DOL regulations, the Eleventh Circuit noted that the analysis is "ultimately a holistic determination, but several factors guide the inquiry," including that:

- the employee should have the "authority to make an independent choice, free from immediate direction or supervision," even though their choices may still be subject to review, revision, or reversal;
- the work must involve "more than the use of skill in applying well-established techniques, procedures or specific standards described in manuals or other sources" and cannot be "mechanical, repetitive, recurrent or routine;" and
- must relate to "matters of significance," which "refers to the level of importance or consequence of the work performed."

29 C.F.R. §§ 541.202(a) – (e).

Applying those principles here, the Court of Appeals concluded that the business development managers met the requirements for the administrative exemption because they "had a hand in choosing which leads to develop, performed customized research before meeting with selected leads, and delivered presentations that necessarily required some amount of customization." Moreover, based on testimony from some of the managers, the Eleventh Circuit determined that the position's primary role is to "develop business leads and opportunities for the dealerships," with a focus on "developing those new relationships and bringing them to the dealer." Unquestionably this was a matter of significance for the employer's business, concluded the Court of Appeals, because the business depended on bringing in new customers for its financial success. Thus, in dismissing the case, the trial court had properly concluded that the administrative exemption applied.

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