

## Federal Court Judge Reverses Prior Opinion, Finds Insurance Adjusters Exempt

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In 2010, Judge Leonard Wexler of the Eastern District of New York denied summary judgment in an early motion regarding the applicability of the administrative exemption to GEICO's insurance adjusters. **Harper v. Gov't Emples. Ins. Co.**, 754 F. Supp. 2d 461 (E.D.N.Y. 2010). Now, three years later, following extensive class-wide discovery on the issue of the adjusters' exempt status, Judge Wexler reversed his earlier finding, ruling on the expanded record that the adjusters satisfied the exemption test as a matter of law. *Harper v. Gov't Emples. Ins. Co.*, 2013 U.S. Dist. LEXIS 157938 (E.D.N.Y. Nov. 4, 2013).

Critical to the court's decision was Judge Wexler's finding on the expanded record that the adjusters exercised discretion and independent judgment within the meaning of the exemption because they fell "squarely within the particular regulation describing claims adjusters who are deemed exempt." Citing 29 C.F.R. § 541.203(a). Observed Judge Wexler with respect to the adjusters' discretion and independent judgment, "the monetary amount of individual claims adjusted does not take away from the significance of the matters handled by the [Plaintiffs]. The personal interaction with [an adjuster] may be a policy holder's only interaction with GEICO. Certainly, the customer service provided by the [adjuster] is a significant matter to the company's overall business reputation and, consequently, its financial health and potential for growth."

Harper joins other Eastern District [decisions](#) finding that individuals who exercise discretion with respect to their employer's business—be it a restaurant, municipality or large insurance firm—meet the **administrative exemption test**. However, the administrative exemption remains a difficult one for courts—and thus, employers—to apply. Often, protracted costly litigation such as that seen in Harper may be necessary to obtain a favorable ruling.

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