

Virginia Judge Finds Another Loan Officer To Be Exempt “Outside” Salesman

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Adding to his [string of summary judgment opinions](#) regarding the applicability of the outside sales exemption to mortgage loan officers employed by Prospect Mortgage, **Eastern District of Virginia** Judge James C. Cacheris issued another opinion granting summary judgment to Prospect because the Plaintiff’s deposition testimony established that he was “customarily and regularly” away from Prospect’s place of business in performing his sales duties. *Hantz v. Mortgage*, 2014 U.S. Dist. LEXIS 14359 (E.D. Va. Feb. 5, 2014).

Analyzing Plaintiff Hantz’s deposition testimony concerning how he performed the loan officer job, the Court determined “that he spent a significant amount of time each week outside the office engaged in sales related activities. His undertakings included meeting with realtors and distributing fliers, attending open houses to network with potential customers, and giving seminars.” The Court deemed this central finding “sufficient to trigger the exemption . . . [even though] Plaintiff also worked considerable hours inside the office [because] it is the nature of the time spent outside the office, rather than the amount of time, that drives the Court’s conclusion.” The Court also cited Plaintiff’s testimony regarding the importance of the outside activity to his sales, as his “sales model was based heavily on home buyer seminars [he] conducted.”

Judge Cacheris’ series of decisions constitute persuasive authority concerning the application of the “customarily and regularly away” concept; an employee need not spend a majority of his or her time “outside” provided the time away is recurring and important to the sales process. State law rules must of course be considered separately, where applicable.

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