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One Minute Memo®

California Supreme Court Weighs In (Or Not) On The Administrative Exemption

On December 29, 2011, four years after granting review, the California Supreme Court decided *Harris v. Superior Court*, holding that the Court of Appeal mistakenly concluded that claims adjusters, as a matter of law, do not qualify for the administrative exemption.

Employment lawyers had hoped that the Supreme Court would use this occasion to provide some definitive guidance for the employer community. Instead, in reversing the lower court's decision, the Supreme Court simply held that the Court of Appeal had improperly applied the "administrative/production worker dichotomy" as a *dispositive* test. The general advice that the Supreme Court provides in *Harris* is that courts evaluating the administrative exemption must apply the specific language of the relevant statutes and wage orders, and should consult other sources (such as the administrative/production dichotomy) only if the statutes and wage orders fail to provide adequate guidance.

Case Background

Liberty Mutual claims adjusters filed a class action seeking unpaid overtime wages based on their allegation that Liberty Mutual misclassified them as exempt administrative employees. Following the trial court's grant of class certification, plaintiffs moved for summary adjudication on Liberty Mutual's affirmative defense that plaintiffs were exempt from the overtime requirements under the administrative exemption. The trial court denied plaintiffs' motion, and, at the trial court's recommendation, the parties sought interlocutory review.

On review, the Court of Appeal reversed and directed the trial court to enter an order granting plaintiffs' motion for summary adjudication. Specifically, the Court of Appeal held that the plaintiffs could not be considered exempt employees because they were not engaged in administrative work. In so holding, the Court of Appeal strictly applied the "administrative/production worker dichotomy" test set forth in the *Bell v. Farmers Insurance Exchange* cases, 87 Cal.App.4th 805 (2001) and 115 Cal.App.4th 715 (2004) (collectively "*Bell*"). In strictly applying the dichotomy and relying on *Bell*, the *Harris* Court of Appeal held that insurance claims adjusters could not qualify for the administrative exemption as a matter of law because adjusting claims was part of the "product" that their employer sold.

California Supreme Court Reverses Court Of Appeal And Distinguishes *Bell* Cases

To qualify for the administrative exemption in California, Labor Code section 515 requires that an employee: (1) be paid a salary at or above a certain level; (2) perform administrative work; (3) have primary duties that involve administrative work; and (4) discharge those primary duties by regularly exercising independent judgment and discretion. In *Harris*, the California Supreme Court only considered the second factor, whether the employees' work qualified as administrative.

According to the applicable Wage Order, this determination requires an analysis of whether such work is "*directly related*" to management policies or general business operations of the employer. The California Supreme Court broke this analysis down into two components, one "qualitative" and the other "quantitative:" (1) whether the employee's work is administrative in nature, and (2) whether it is of "substantial importance" to the management policies or general business operations of the

employer.

In reversing the Court of Appeal, the California Supreme Court distinguished *Bell* on two important grounds. First, the Court noted that the opinions in Bell limited their holding to the specific facts involved in that case. For example, in *Bell*, the employer had stipulated that the work performed by the employees in question was "routine and unimportant." Second, the Court noted that the analysis employed by the court in *Bell* was dependent on its conclusion that the applicable Wage Order at that time (Wage Order 4-1998) did not provide a sufficient definition of the administrative exemption, thereby requiring the *Bell* court to look beyond the language of the Wage Order.

In contrast, the Court noted that Wage Order 4-2001 (the current and operative Wage Order in *Harris*) incorporated specific federal regulations and contained "detailed guidance" concerning the administrative exemption. Thus, by relying on *Bell* and its application of the administrative/production dichotomy, the Court of Appeal in *Harris* erred by "provid[ing] its own gloss to the administrative/production worker dichotomy and us[ing] it, rather than applying the language of the relevant wage order and regulations."

In distinguishing the *Bell* cases, the Court declined to state any rule that would forbid use of the administrative/production dichotomy as an analytical tool, in an appropriate case. Instead, the Court held that, in resolving whether work qualifies as administrative, courts must consider the particular facts before them and apply the language of the statutes and wage orders at issue. If the statutes and wage orders fail to provide adequate guidance, the Court held it would be appropriate to consider other sources, including, presumably, the administrative/production dichotomy.

In reversing the Court of Appeal, the Supreme Court expressed no opinion on the strength of the parties' relative positions on the merits of the exemption.

What *Harris* Means For Employers:

The only concrete guidance from the California Supreme Court in *Harris* is that the administrative/production dichotomy is not a dispositive test for the administrative exemption. However, the Court left open the possibility that the dichotomy may still apply in future cases. Employers who were looking for more specific guidance from the Court on the administrative exemption will be disappointed, as, even after *Harris*, determining whether an employee satisfies the administrative exemption remains a highly fact-specific venture.

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