

Are Insurance Adjusters Eligible for Overtime Pay to be Decided by California Supreme Court

October 17, 2011 by [Michael Newman](#)

On October 3, 2011, the [California Supreme Court](#) heard argument in [Francis Harris et al v. Superior Court](#), Case No. S156555. The issue here is whether insurance adjusters should be eligible for overtime pay under California's wage and hour laws.

In 2007, the [California Court of Appeal, Second District, Division One](#), ruled that insurance adjusters who sued Golden Eagle and Liberty Mutual were nonexempt from California's overtime laws. The insurers had argued that the adjusters were subject to the "administrative exemption" to California's overtime rules, which provides that persons employed in "administrative, executive, or professional capacities" are exempt from overtime.

[In a 2-1 ruling](#), the Court of Appeal disagreed.

[Justice Rothschild](#) wrote the opinion of the Court, pursuing a lengthy and complicated analysis of California and federal law to reach the conclusion that adjusters were not exempt.

Noting that California law requires that exempt administrative employees be "primarily engaged in office or non-manual work" that is "directly related to management policies or general business operations," the Court concluded that this requirement was only satisfied if such work relates to the administrative operations of a business as distinguished from production or, in retail services, sales work.

Applying this "administrative/production worker dichotomy," the Court held, adjusters were not subject to the administrative exemption, since their work involved the daily carrying out of the insurance business' affairs, and had no effect on the policies adopted by the Company or general business operations.

[Justice Vogel](#) dissented, wryly noting that "[t]he majority's analysis is complex. Mine is not."

Noting that federal regulations, which are incorporated into California's regulations by reference, specifically note that claims adjusters constitute administrative employees, Justice Vogel would have rejected the "administrative/production" dichotomy as a test. Instead, she pointed to applicable federal regulations, which specifically provide that work performed by employees who advise, plan, negotiate, and represent management are administrative employees.

Watch this space. We'll keep you posted on developments as they occur.